

Torture and detention in Nigeria

Overview

Nigeria has a history of consistent struggle in the area of protection and promotion of human rights. Since the return of civilian government in 1999, there has been concerted efforts by both the government and non-governmental organizations to place the country on the path of a clean human rights records.

The efforts to promote and protect human rights has produced some commendable results in terms of enactment of National Laws and ratification of regional and international human rights instruments. The 1999 Constitution of the Federal Republic of Nigeria (as amended) also makes robust provisions on the Fundamental Human Rights of all Persons in Nigeria.

However, commendable as these efforts are, the laws are yet to impact practically on the protection of human rights in the country. The major challenge remains non-implementation and enforcement of these laws.

The situation on torture and ill-treatment worsens everyday and remain widespread, in particular in places of detention. According to Amnesty International, “torture is a routine occurrence in Nigeria, largely used to extract confessions or as punishment for alleged crimes. Hundreds of suspects in police and military custody across the country are being subjected to a range of physical and psychological torture or ill-treatment . There are consistent allegations of torture by the Special Anti-Robbery Squad (SARS) of the Nigeria Police to extort confessions from detainees and arrested persons. In relation to SARS, Amnesty International has observed that “A police unit created to protect the people has instead become a danger to society, torturing its victims with complete impunity while fomenting a toxic climate of fear and corruption”.

Concerned by this development, PRAWA established an Observatory on Human Rights Compliance by Security and Justice Sector institutions involving human rights institutions and some human rights focused organizations. The reports of the Observatory and other sources showed that some of the methods used in torturing suspects include shooting both legs known as V.I.P treatment, severe beatings directed at sensitive parts of the body like the head or genitals, ordering detainees to administer beatings and cruel treatment on fellow inmates, burning with cigarettes , hot irons or flame, suspending victim off the floor by the wrists or ankle, usually supplemented with flogging, sexual torture through rape, including sexual violation using objects such as bottles and broomsticks, head-banging , punching, kicking, striking with rifle butts, mock executions and threat of executions, food deprivation and forcible drinking of urine, denial of medical treatment among others.

Conditions in most places of detention constitute at the very least cruel, inhuman or degrading treatment. Overcrowding is a common feature of detention facilities, which means that inmates hardly find space to sleep. A report on visitation of SARS Cell in Abuja observed that some detainees were critically ill with no medical attention; some of those critically ill detainees were kept in a place referred to as ‘mortuary’; a portion of the detention facility roof was blown off and there was only one toilet for the entire detention facility.



Torture and police abuse

Past UPR recommendations

In the October 2013, Human Rights Council's Universal Periodic Review (UPR) of Nigeria, Switzerland recommended that Nigeria should:

'Continue the development and implementation of measures aimed at reducing human rights violations by the security forces in particular extrajudicial executions, arbitrary detention and torture, as well as making the mechanisms of tackling impunity more effective'.

Current state of Implementation

In 2017, the Government of Nigeria enacted the Anti-Torture Act as a key measure to eradicate torture in the country. Unfortunately, the law has significant gaps, in that it lacks fundamental provisions on investigation of acts of torture and victims right to rehabilitation.

While it is still too early to make a final assessment of how the law will be implemented, the indications so far are not promising. Allegations and public incidents are still not thoroughly investigated, perpetrators are not prosecuted, and there are no established government structures and mechanisms for rehabilitation of the victims.

Some non-governmental organisations in Nigeria like Prisoners Rehabilitation and Welfare Action (PRAWA) are making efforts in the area of rehabilitation of victims of torture but this is by no means adequate to address a problem this scale and magnitude.

The Government has established the National Committee on Prevention of Torture to regularly monitor the treatment of persons deprived of their liberty in custody. However, this mechanism is currently unable to fully execute its mandate in accordance with the OPCAT due to a wide variety of problems. The committee has such fundamental problems as lack of independence, inadequate professional capacities (there are no psychologists). At the point of writing, there are also no available records of the committee's visits to detention facilities, thereby putting to question their ability to impact positively on the institutions in question.

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Recommendations

1. Amend the Anti-torture Act to provide for rehabilitation for torture victims and support institutional and sustainable structure for its effective implementation. As a short term measure, include rehabilitation in the standard operating guideline for the implementation of the existing law on torture.
2. Provide an efficient and effective framework for the enforcement of the anti-torture law and the laws against police brutality.
3. Partner with relevant international and national bodies such the National Human Rights Council in order to support torture victims and provide rehabilitation services.
4. Develop a case management system of data accounting for numbers of tortured victims within police detention facilities and out of the facilities.
5. Ensure that the National Preventive Mechanism is functioning in accordance with the requirements of the OPCAT.

Increase in pre-trial detention of petty offenders

Previous UPR recommendations:

No previous UPR recommendations

Current state of Implementation

PRAWA is very concerned about the excessive use of pre-trial detention and the incessant cases of arrest and detention before investigation of offences resulting in the congestion of prisons. Nigeria's Federal laws has abolished "wandering" and equally provide that "a person who is accused of a simple offence shall not, by reason only of being accused of such offence, be detained in police or prison custody". However, some statutes still harbour provisions on petty offences, resulting in security agents arresting and detaining the poor and needy in the society whom they tag "idle and disorderly persons" as well as "rogues and vagabonds." There are also State laws criminalizing such petty offences as street trading and traffic offences and others that deal with "disorderly persons," including prostitutes, beggars and persons engaged in gaming activities. Some of these persons languish in prisons perpetually because even when they are granted bail, they are not able to meet the bail conditions. Furthermore, the frequent use of imprisonment for petty crimes such as street hawking based on summary trials by mobile courts result in a high number of persons, including minors between 12 and 17 years of age, spending prison terms between 6 months and 3 years.

This raises concerns about arbitrary detention and is a major cause of the severe overcrowding in Nigeria's prisons.

Recommendations:

1. Take concrete steps to remove all provisions that criminalize petty offences from both Federal and State laws.

2. Encourage less use of pre-trial detention and increased utilization of alternatives to imprisonment measures especially for minor offenders. It should also

include diversion from prison custody of special needs offenders including young offenders and mentally ill prisoners to appropriate facilities

3. Raise awareness among security sector institutions on the decriminalization of petty offences and the prohibition of arrest and detention of persons on that basis.

4. Undertake constitutional amendments to make the Economic, Social and Cultural Rights (ESCR) enforceable and create enabling legislations and programs aimed at addressing the issue of extreme poverty.

Lack of central record and public access to persons in detention

Previous UPR recommendations:

In October 2013, Nigeria accepted recommendations from the the Universal Periodic Review to:

'Establish a human rights monitoring system, which allows access to detention centers in northern Nigeria, works with affected communities and promotes accountability for serious violations of human rights'.

'Establish a procedure for providing immediate registration of arrest and detention of people and ensure that their families were systematically informed'.

Current state of Implementation

In 2015, the Federal Government of Nigeria passed a new Administration of Criminal Justice Act with the objective of ensuring that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant and the victim.

Unfortunately, there remains brazen abuse of rights of suspects and the practice of arrest and detention before investigation is widespread and often results in suspects being forgotten in detention facilities without

prosecution and without record of their detention or the time of arrest. There is no central database of persons in detention in Nigeria. There are about 19 security institutions with detention facilities.

During its work in prisons, PRAWA regularly come across persons awaiting trial whose files are missing. Most of them are indigent picked up during mass arrest by the police. Some were suspects arraigned by the police in vacation courts during court vacation and remanded in prison custody to enable the conclusion of the investigation. In many cases, these persons remain in prison for months without trace of their records as police fail to follow up with prosecution of their cases after the vacation courts have been dissolved. On record are several cases where the orders of the court granting bail to suspects were disobeyed and in some of these cases, such suspects have spent over two years in detention. The case of Jones Abiri, a journalist, detained for two years without arraignment in court is a recent public example of these problems.

The abuse of the fundamental rights of the victims is possible because of the lapses in the system of oversight of these agencies. Access to most detention facilities in Nigeria is still a big challenge, making monitoring of their activities practically impossible. There is no central record of persons in detention; proper records are not kept of arrested persons nor are such records made public.

Recommendations:

1. Establish a tamper proof register of all persons placed under arrest and a comprehensive database of all places of detention, including their location, number of persons detained, their compliance with international human rights standards and other relevant information.
2. Put in place a system that ensures unhindered access to all places of detention for detainees' families, legal counsel, medical doctors and NGOs, and complete tracking of the whereabouts of all detainees from point of arrest to discharge.
3. Strengthen available mechanisms in place to ensure that victims of unlawful arrest and detention access lawful remedies.

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Prisoners' Rehabilitation and Welfare Action (PRAWA) is a nongovernmental organisation whose vision is the emergence of a humane and secure society that corrects and empowers to prevent crime, violence and torture. PRAWA works in three thematic areas which include Security and Justice, Social Development and Rehabilitation, Research and Documentation. PRAWA has a wealth of experience spanning over 23 years with strong track records in implementing practical and innovative prisons/corrections and justice sector reform interventions in Nigeria and other African countries. The organisation is part of a number of global networks including the International Corrections and Prisons Association (ICPA), American Correctional Association (ACA), International Rehabilitation Council for Torture Victims (IRCT), International Association for Correctional and Forensic Psychology (IACFP), International Community Corrections Association (ICCA), and the Global Justice Resource Centre.

The International Rehabilitation Council for Torture Victims (IRCT) is a health-based association working on rehabilitation of torture victims and the prevention of torture worldwide. Our members comprise more than 160 independent organisations in over 70 countries. Our work is governed by these member organisations. Today, we are the largest membership-based civil society organisation to work in the field of torture rehabilitation and prevention.