

**Joint Shadow Report to the
United Nations Committee Against Torture**

For the periodic review of The Federal Republic of Nigeria

November- December 2021



JOINT CSO SHADOW REPORT TO THE UNITED NATION'S COMMITTEE AGAINST TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT AND PUNISHMENT

1. INTRODUCTION

- 1.1. This report is submitted to the UN Committee against Torture as a "shadow" report of the period under review of the Federal Republic of Nigeria to highlight key areas in which the Nigerian government can improve its commitments under the Convention.
- 1.2. This report is a joint submission by the following Nigerian CSO's: Sterling Center for Law & Development, Avocats Sans Frontieres France (Lawyers without borders), Partners West Africa Nigeria (PWAN) and Idris Bawo & Co led by Lawyers Alert.
- 1.3. Lawyers Alert is a Nigerian civil society organisation that is non-partisan and registered as a non-profit. It consists of lawyers and other professionals committed to the entrenchment of democracy, rule of law and socio-economic development of residents of Nigeria with particular emphasis on women. Its vision is the entrenchment of democracy in Nigeria. Its mission is the empowerment of the citizenry, especially vulnerable groups, through knowledge of their rights and accessible means of enforcing the same in a secure environment.
- 1.4. Nigeria ratified the Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 2001. In November/December 2021, Nigeria's implementation and compliance with the CAT will go be reviewed before the U.N. Committee Against Torture.

2. THE NATIONAL FRAMEWORK ON TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT AND PUNISHMENT IN NIGERIA

Article 1

- 2.1.1. Nigeria is a State party to a range of international and regional human rights instruments expressly prohibiting torture and ill-treatment such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention or UNCAT) and its Optional Protocol.

Article 2

- 2.1.2. The protection and enjoyment of fundamental human rights are included in Chapter 4 of Nigeria's 1999 Constitution (as amended). Section 34(1) (2) provides that "no person shall be subject to torture or to inhuman or to degrading treatment."
- 2.1.3. In 2017, the National Assembly passed the Anti-torture Act 2017 as legislation filling the existing legislative gaps by explicitly making the right to freedom from torture, cruel, inhuman and degrading treatment a non-derogable right, criminalizing torture and protecting victims and witnesses of torture.

- 2.1.4. As a State Party to the Optional Protocol, in 2009, Nigeria put in place a National Preventive Mechanism known as the National Committee against Torture (the National Committee). The National Committee's mandates extends beyond visiting and inspecting detention facilities to include the assessment and investigation of claims of torture, as well as the receiving of communications of abuse from people and civil society organizations. It also has the authority to conduct a comprehensive assessment of interrogation rules, techniques, and practices, arrange for detention, propose anti-torture legislation, and established a national anti-torture strategy. Evaluation of the performance of the National Committee Against Torture.
- 2.2.4. Similarly, the National Human Rights Commission has the mandate to deal with all matters relating to the protection of human rights in Nigeria as guaranteed by the Nigerian Constitution and international conventions.
- 2.2.5. The Police Service Commission is the body constitutionally mandated to provide general supervision of the police, to oversee its organisation and administration, discipline erring police officers for unprofessional conducts including acts of torture.
- 2.2.5 There are other ancillary legislations and state laws prohibiting torture in Nigeria such as the Violence Against Persons Prohibition Act 2015, certain provisions of the Police Act, the Nigerian Correctional Service Act, 2019 amongst others.

3. STATE OF TORTURE IN NIGERIA

Article 4

- 3.1.1. Over the years, the police have been accused of a range of extra-judicial actions ranging from unlawful arrests to extortion and killings. Most of these accusations went uninvestigated and unpunished, owing to poor state protection and a lack of accountability mechanisms for the state security apparatus. In some cases, victims were tortured even to the point of death over the contractual, business and non-criminal disputes.
- 3.1.2 Nigeria recently experienced social protest over issues of torture and extrajudicial killings related to the activities of the Special Anti-Robbery Squad (SARS), a unit of the Nigeria Police Force. Reports state that detainees in SARS custody have been subjected to a variety of methods of torture which in some cases have led to deaths. Acts of torture, cruel, inhuman, degrading treatment and punishment perpetrated by the Police including the SARS Unit led to a massive outcry against police brutality and culminated in the END SARS protest of October 2020.
- 3.1.3 The October 2020 SARS protest was the second of such protest in three years. The first END SARS protest in 2017 was also as a result of cruel treatment, torture and illegal killings by the Police. This was investigated by panels led by the National Human Rights Commission and reports were submitted to the Federal government with no action taken until the second set of protests 2020.

- 3.1.4 After the October 2020 protest, the Federal Government in a bid to fully investigate the circumstances leading to the unrest and restore public confidence in the state set up Judicial Panels of Inquiry across the entire country. The panels were tasked with identifying individuals who participated in the wanton destruction of lives and property to face appropriate sanctions for sanctions and also to identify victims of SARS and police brutality.
- 3.1.5 In a snap assessment¹ conducted by Lawyers Alert on the performance of the activities of the judicial panels of inquiry in Nigeria post the ENDSARS protest, it was discovered that over 2,648 petitions were filed before the Judicial Panels of inquires in the time of compiling this report, most state panels are yet to conclude proceedings and states that have transmitted their recommendations to the government are yet to receive the recommended compensation awards.
- 3.1.6 In defending the country and prosecuting the war against terrorism, there are serious allegations of Nigeria's military engaging in indiscriminate extra-judicial killing. These killings involve systematic and lingering violations of basic human rights as the main sources of torture and inhuman treatment in Nigeria. A tendency for the indiscriminate killing of suspects and innocent people perpetually, in the guise of counter-terrorism has created strife between the security agencies and the populace which is counter-productive to the fight against insecurity and terrorism. The violation of human rights in the Northeast of the country in the guise of combating terrorism is a shortsighted advantage.
- 3.1.7 A recent report by Amnesty International reveals that Nigeria's government has responded with military force to the killings and violence widely attributed to the armed group calling itself Eastern Security Network (ESN), the armed wing of the Indigenous People of Biafra (IPOB), a pro-Biafra movement. According to the report, the ESN killed dozens of security operatives and attacked at least ten public buildings, including prisons and police stations. In response, security forces comprising military, police, and Department of State Services (DSS) have killed dozens of gunmen, as well as civilians, where attacks have been committed.²
- 3.1.8 Nigerian security forces have committed a range of human rights violations and crimes under international law in their response to spiralling violence in Northeast and Southeast Nigeria, carrying out a repressive campaign that has included sweeping mass arrests, excessive and unlawful force, torture and other ill-treatment.
- 3.1.9 Torture and extrajudicial killings have not only been restricted to state actors but extend to non-state actors. The high level of insecurity in the country can be traced to non-state actors terrorist

¹ Snap Assessment of the Performance of the Post Training Judicial Panel Of Inquiry In Nigeria Post #Endsars Protest Post-Training Facilitated By ICJ, LA AND NHRC

<https://www.lawyersalertng.org/activitiesongenderandhumanrights>

² Nigeria: At least 115 people killed by security forces in four months in country's

Southeast <https://www.amnesty.org/en/latest/news/2021/08/nigeria-at-least-115-people-killed-by-security-forces-in-four-months-in-countrys-southeast/> Accessed September 20th 2021

groups and movements such as Boko Haram, Indigenous People of Biafra (IPOB) movement, herders, bandits and other unknown armed persons.

- 3.2.1 The issue of torture and insecurity in the northeastern part of Nigeria has persisted over the years as Boko Haram have continued to launch attacks against civilian, humanitarian, and military targets. In a report conducted between January and June 2021, at least 920 civilians have been reported to have been killed by the Islamist sect.³ In the northwest and parts of the south, intercommunal violence is prevalent as herder-allied armed groups, vigilantes, and criminal gangs killed hundreds of civilians, kidnapped people for ransom, and raided cattle.
- 3.2.2 The growing security threats in Nigeria's Southeast region are now a cause for concern. In a recent analysis of insecurity in the region, it was disclosed that about 724 people were killed and 802 kidnapped in 336 incidents in the first quarter of 2021, while in the last quarter of 2020, 384 people were killed, 510 persons kidnapped in 256 incidents.⁴
- 3.2.2. On a daily basis, Nigeria records cases of violence against persons and torture by bandits and terrorist groups. Violent attacks by the assailants known locally as bandits are common across the northwest and central parts of Nigeria, especially in remote communities where there are no adequate security presence.⁵ These bandits invade communities, set houses ablaze, and slaughter people. Nigeria's security operatives, especially those operating in violence hotspots, are outnumbered by armed non-state actors. They are known to mobilise in large numbers in raids against communities.

4. Torture, cruel, inhuman or degrading treatment and punishment Against Women, girls and LGBT persons: Gender Base Violence and Rape

- 4.1.1 In Nigeria, gender-based violence and rape has become an endemic; a social, economic and health concern. It is equally a development problem. It is estimated that one in every three women suffers domestic violence from the hands of those who claim to love and protect them.
- 4.1.2 Nigeria ratified the Convention Against Torture (CAT) in 2001 and the Optional Protocol to the Convention in 2009. However, the first recognition of violence against women as a violation of the right not to be subjected to torture, cruel or degrading treatment was in the CEDAW recommendation No.19. This view has however been confirmed by the Committee Against Torture, which is the body charged with monitoring the implementation of the Convention Against Torture.

³ <https://nairametrics.com/2021/09/17/media-reported-killings-top-5-states-in-nigeria-for-h1-2021/> Accessed 21st September 2021

⁴ <https://www.thisdaylive.com/index.php/2021/07/26/as-insecurity-tears-across-the-south-east/> Accessed 6th October, 2021

⁵ <https://www.aljazeera.com/news/2021/9/30/dozens-killed-and-abducted-in-nigerias-north> Accessed 20th September, 2021.

- 4.1.3 Lawyers Alert monitors and documents human rights violations and provides free legal assistance to women and girls in Nigeria. From our direct assistance, work and documentations, we are aware of several violations of the rights of women in Nigeria; different forms of torture and cruel and inhuman abuses on women committed by security operatives and non-state actors have been recorded. Several human rights agencies, including the National Human Rights Commission have documented these violations.
- 4.1.4 Lawyers Alert reported violations of Violence Against Women and Girls in Nigeria between July 2019 – March 2021. ⁶The findings in this report cuts across the six (6) geo-political zones in Nigeria. It is instructive to note that most of the violations reported are associated with issues of rape and violence, especially in the domestic spaces. Lawyers Alert has also intervened in other similar matters, including a case where an expectant mother was remanded in custody in May 2017 and subsequently delivered and nursed her baby in circumstances contrary to the best interests of the child.⁷
- 4.1.5 Women and girls are vulnerable because they are socially and economically disempowered and often have no options or means to leave their abusers. COVID-19 and its attendant lockdown have resulted in an upsurge in the reported violations with regard to women and girls. From the analysis conducted by Lawyers Alert, violence Against Women and Girls (VWG) ranked highest with 41%, closely followed by Men who have Sex with Men (MSM) at 21%. Female Sex Workers (FSW) ranked third at 14%, with Persons Living With HIV (PLWH) ranking fourth at 13%. The LGBTI Community came fifth at 9% and Persons Who Use/Inject Drugs (PWID) was captured at 2%. Persons With Disabilities (PWDs) had an insignificant reportage of less than 1%. The above indices shows that the issue of gender-based violence in Nigeria is a serious concern.⁸
- 4.1.6 The Convention Against Torture prohibits all forms of torture which is defined as ‘any act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person for such purposes as obtaining from him or a third person information, punishment, intimidation or coercion or for any reason based on discrimination. Even though the torture must be inflicted by a public official, the state may be responsible if it acquiesces to the act.
- 4.1.7 In a bid to address the issue of violence against persons in Nigeria, the Violence Against Persons (Prohibition) Act of 2014 was passed with provisions on the prohibition against all forms of violence against women.

⁶ Report on Violation available at [https://wixlabs-pdf/ https://www.lawyersalertng.org/resourcespage1](https://wixlabs-pdf/https://www.lawyersalertng.org/resourcespage1) Accessed 4th October, 2021

⁷ Summary of case available at: <http://www.lawyersalertng.org/details.php?recordID=18>, accessed 3rd October 2021

⁸ Report on Violation available at [https://wixlabs-pdf/ https://www.lawyersalertng.org/resourcespage1](https://wixlabs-pdf/https://www.lawyersalertng.org/resourcespage1) Accessed 4th October, 2021

5. CSO Concerns

- 5.1. The frameworks that have been put in place by the government to prevent torture are insufficient. It is not enough to simply prohibit and criminalise torture under national laws the Nigerian government must take a range of further measures to protect people and prevent these forms of torture and violations. Notably, freedom from torture and ill-treatment is not listed among the non-derogable rights in the Constitution. This is problematic, because the absence of a non-derogable right to be free of torture and ill-treatment in the Constitution may have been used to justify some abuses perpetrated by security personnel. Even though the enactment of the Anti Torture Act 2017 came with several expectations, there is hardly any successful conviction based on the provision of the Act.
- 5.2. In spite of the National Committee's extensive mission, its influence has been negligible, as evident by the continuous claims of torture and ill-treatment by law enforcement, detention, and prison authorities since its inception in 2009. The Committee has yet to make public a report on its operations, which includes visits to detention facilities. The Committee's lack of financial and logistical resources prevents it from playing a meaningful role in monitoring detention centers and avoiding torture. Despite being obliged to examine claims of torture, Nigeria's National Committee against Torture has not done so, owing to a lack of resources and assistance.
- 5.3. The National Human Rights Commission, whose mandate is to examine complaints, is limited in its ability to proffer remedial measures outside of recommendations to the governmental agencies who hardly implement them. The implementation of the recommendations of judicial panels of inquiry is a major concern as state governments have not adequately met up with the compensation recommended by the judicial panels of inquiry.
- 5.4. The Police Service Commission whose mandate is to ensure professionalism in the police force is failing to fully implement in line with its mandate due to a lack of resources and human resource capacity to effectively perform its oversight functions.
- 5.5. The attitude of the government towards the issue of sanctioning torture in Nigeria is worrisome; the government is not imposing sanctions on its agents, members and on non-state actors who are in violation of the prohibitions against torture in Nigeria. They are accordingly failing to abide by national and international law.
- 5.6. The Nigerian government can no longer evade the need for serious reform and accountability in the police system. There is a need for the government to go beyond mere words and take immediate steps to hold police officers and others accountable. The Nigeria Police Force is understaffed with about 350,000 personnel to police a population of about 290million. By implication, an average Nigerian police officer is being overworked and under tremendous stress to put in a six-day working week.

- 5.7. The Nigerian government is failing to prevent and protect people from gender-based violence, rape, domestic violence, female genital mutilation and trafficking. The government is falling short of the commitments to the Convention Against Torture. Furthermore, the government is unable and possibly unwilling to protect and prevent torture directed at members of the LGBT community.

6. CSO Recommendations

- 6.1 The government should ensure that investigations into the activities of the SARS Unit are promptly concluded, and perpetrators brought to justice and victims and victim's families to appropriately and adequately compensated. The recommendations made by the Judicial Panels of Inquiries should also be implemented.
- 6.2 The National Committee on Torture should be provided with financial and logistical resources, to ensure that they are able to carry out their mandate effectively.
- 6.3 The Police Service Commission should be provided with adequate capacity and resources to effectively carry out its oversight function to ensure professionalism in the Police force
- 6.4 The Nigerian government needs to conduct training and education of law enforcement officials on the Anti-Torture Act 2017 and Police Act 2020.
- 6.5 The government needs to ensure that the provisions of the Anti-Torture Act 2017 are enforced and sanctions are meted out to both state and non-state actors.
- 6.6 Nigeria government should oversee and ensure that periodical reports are submitted to the UN Committee on Torture.
- 6.7 Nigeria government should make provision to recruit more police officers every year for at least the next five years to ensure adequate police support and protection for the whole population. This recruitment should cater for the needs of underserved populations like women and girls and members of the LGBT community.
- 6.8 Nigeria should create an enabling environment for LGBT individuals, human rights defenders and organisations to exercise their constitutional rights to freedom of association and expression. This includes providing a legislative framework that protects LGBT persons and which removes legal and practice barriers for registration of organisations advocating for the rights of lesbian, gay, transgender and bi-sexual people.

7. Conclusion

Lawyers Alert remains available for further engagement with the Committee.

Submitted: 11 October 2021