



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Summary record of the 1852nd meeting*

Held at the Palais des Nations, Geneva, on Tuesday, 16 November 2021, at 10 a.m.

Chair: Mr. Heller

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* No summary record was issued for the 1851st meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Consideration of the situation in Nigeria in the absence of a report

1. *At the invitation of the Chair, the delegation of Nigeria joined the meeting.*
2. **Mr. Abubakar** (Nigeria) said that his Government was making progress towards submitting its initial report to the Committee. The national preventive mechanism, the National Committee against Torture, had been established in 2009 and played a significant role in assisting victims of torture and other cruel, inhuman and degrading treatment. The Government had adopted a national action plan for the promotion and protection of human rights, in line with the Constitution of 1999, which provided for the prohibition of torture and all forms of inhuman and degrading treatment.
3. In response to concerns regarding the state of correctional facilities in Nigeria, the Government had launched a programme for the holistic reform of its criminal justice system and had amended the legislation governing correctional services. Reform efforts included the enactment, in 2015, of the Administration of Criminal Justice Act, which placed the rights of persons in conflict with the law at the heart of the criminal justice system. In addition, a recent review of the Police Act had emphasized the importance of professional conduct and adherence to the rule of law.
4. Efforts were under way to reform the judiciary. The Judicial (Financial Autonomy) Act, passed by a majority of the 36 states of Nigeria, would provide additional guarantees for strengthening the independence of the judiciary. In addition, the National Human Rights Commission had been repositioned to provide speedier remedies for victims of torture, particularly vulnerable persons.
5. In view of the extensive use of the military in Nigeria to respond to insurgencies and acts of terrorism, and acknowledging that human rights violations had occurred in the course of military operations in the country, the Government had rolled out seminars, workshops and courses on the rules of engagement for the Nigerian armed forces. Human rights desks had been set up within all units of the armed forces to enable an immediate response to citizens' complaints regarding the excessive use of force by military personnel. Moreover, the Government had recently established a judicial panel of inquiry to investigate the armed forces' observance of rules of engagement in all parts of the country where they operated.
6. **Mr. Touzé** (Country Rapporteur) said that, in the regrettable absence of a State party report, his questions regarding the implementation of the Convention in Nigeria were based on shadow reports from civil society organizations, the findings of special rapporteurs and the concluding observations of other human rights treaty bodies. He had been particularly struck by a report of June 2021 by the Special Rapporteur on extrajudicial, summary or arbitrary executions ([A/HRC/47/33/Add.2](#)), which drew attention to unlawful killings by security forces, armed groups and gangs, a "broken" criminal justice system characterized by a lack of judicial independence, a failure to implement court orders pertaining to security agencies, a total lack of access to remedies, and the absence of victim-centred approaches in efforts to address widespread and repeated human rights violations.
7. With regard to fundamental legal safeguards, while the Constitution of Nigeria provided for the prohibition of torture and the Anti-Torture Act expressly provided for the criminalization of acts of torture by public officials, he would like to know whether the State party planned to introduce specific provisions to prevent crimes of torture from being subject to statutes of limitations or to ensure there were no amnesties or pardons for perpetrators of torture. Furthermore, he wished to know whether the definition of torture as given in the Anti-Torture Act would be aligned with article 1 of the Convention and whether that Act was directly applicable throughout Nigeria. Likewise, it would be useful to have information on the direct application of the Convention by the domestic courts. In particular, he wished to know whether complainants had cited the violation of their rights under the Convention and how the courts had dealt with such claims.

8. Keeping audio and visual records of confessions, as provided for under the Administration of Criminal Justice Act, was vital to ensure that suspects had not been subjected to violence. He would welcome the delegation's response to allegations that confessions were frequently not recorded in practice. In addition, he would like to know whether prison wardens ever exercised their power to refuse to admit persons with serious bodily injuries, as provided for in the Correctional Service Act. According to information received by the Committee, suspects were frequently denied the opportunity to inform the courts that they had been tortured and were deprived of the right to legal representation at the time of confession.

9. While the right of suspects to be accompanied by a lawyer was provided for in law, he wished to know whether it was honoured in practice. In a similar vein, while the Legal Aid Act required the police to inform suspects of their right to legal services upon arrest and to arrange for the Legal Aid Council to represent suspects who could not afford a lawyer, according to reports received by the Committee, officers rarely complied with that provision and, in many cases, were unaware of its existence. In addition, the Committee understood that the Legal Aid Council was so underfunded that it was not always able to provide its services to those in need. He would appreciate statistics on the number of suspects who had benefited from legal aid and on the funds allocated to enable the provision of such services.

10. Regarding the duration of custody, the Constitution of Nigeria provided that the police must bring suspects before a court of law "within a reasonable time", which the Police Act interpreted as 24 hours. The Constitution further provided that, if there was no court within 40 kilometres, arraignment must take place within 48 hours or "such longer period as in the circumstances may be considered reasonable". Suspects who had not been brought before a competent court within two months must be released unconditionally or "upon such conditions as were reasonably necessary" to ensure that they appeared for trial at a later date. However, the Committee had received information to the effect that police custody could last for as long as several months. He would welcome the delegation's comments in that regard. He would also appreciate the delegation's response to allegations that detainees were not granted a medical examination upon deprivation of liberty, even when they had health problems.

11. The National Human Rights Commission had informed the Committee that it had received almost 30,000 complaints in 2019–2020, some of which pertained to custodial measures. The Committee wished to know precisely what steps had been taken in response to those complaints.

12. According to information received by the Committee, as of January 2020, the military had been involved in security operations in 35 of the 36 states of Nigeria, often assuming civilian police functions. Such militarization had reportedly resulted in unlawful killings, often with impunity. In addition, the heavy-handed response of the armed forces to terrorist attacks had contributed to the escalation of violence against communities, with a number of reports accusing the military of using torture in its efforts to defeat the Boko Haram terrorist group. In its concluding observations of 29 August 2019 (CCPR/C/NGA/CO/2), the Human Rights Committee had expressed concern about certain provisions of the Terrorism (Prevention) Act 2011, such as the broad definition of terrorism and terrorist activities and the disproportionate penalties applied to non-violent acts and omissions falling within the scope of the Act. Although a presidential investigation panel had been established in 2017 to review the armed forces' compliance with human rights obligations and rules of engagement, the Committee was unable to locate the panel's findings. It would be grateful if the delegation could provide that information. Furthermore, it wished to have the delegation's response to an Amnesty International report of 27 May 2021, which claimed that the prolonged detention of children in overcrowded military facilities in the north-east of Nigeria without adequate sanitation, water or food amounted to torture or inhuman treatment.

13. The Committee wished to know why the Government had failed to launch an independent investigation into the reported summary execution in March 2014 of more than 600 detainees who had escaped from the Giwa barracks, where they had been held following their arbitrary arrest. It would also be grateful for information on the current conditions in those barracks.

14. He would like the delegation to respond to reports that the armed forces, the police, the Civilian Joint Task Force, the Special Anti-Robbery Squad and others had sexually abused women and girls. In one particular case, an air force officer had been convicted to five years' imprisonment by court martial for the sexual exploitation of a 14-year-old girl in a camp for internally displaced persons in Borno State. Had any other such cases been brought to the attention of the authorities and, if so, had the alleged perpetrators been prosecuted and convicted?

15. The Committee was pleased to note that the Civilian Joint Task Force had demobilized child soldiers recruited from a camp for internally displaced persons in Borno State, and that representatives of the Federal Ministry of Justice and the armed forces had visited the camp to assess the situation and reiterate the zero-tolerance policy on the use of child soldiers. However, it was concerned about reports of abuses at facilities associated with the Government's deradicalization and rehabilitation programme, including the military's use of minors in support roles. He would be grateful for the delegation's comments in that regard, and for any further information on the scale of that particular problem and the measures taken to address it.

16. A number of sources, including Nigerian and international non-governmental organizations and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, had reported that the use of torture and ill-treatment by Nigerian law enforcement officials was widespread, and was common practice in criminal investigations. In illegal detention centres run by the Special Anti-Robbery Squad (SARS), in particular, such acts had allegedly included hangings, beatings and simulated executions, but the perpetrators had not been held to account. In October 2020, following a public outcry in response to a widely shared video clip of SARS agents dragging two men from a hotel and shooting one of them, the Squad had been dismantled by the federal Government. However, only 29 states and the Federal Capital Territory had set up special investigation panels to examine the high number of allegations of human rights violations committed by the Nigerian police force and the dismantled SARS units. Furthermore, the investigation panels were not functioning properly; the Federal Capital Territory panel, for example, had declared a two-week Easter holiday when it had last met, in March 2021, but had never resumed its work. According to a recent statement by the National Human Rights Commission, the panel had been due to reconvene on 18 October 2021. He wished to know whether the panel had indeed reconvened; if so, what findings it had reached; and what follow-up was being given in general to the allegations concerning the Special Anti-Robbery Squad.

17. According to figures received by the Committee, more than 70,000 people were being held in 240 detention centres with an official capacity of 56,000, resulting in a prison overcrowding rate of 147 per cent. The main reason was the excessive use of pretrial detention: there were more than 50,000 pretrial detainees, many of whom had been in prison for years – some for longer than the sentence they would have received had they been convicted. While government authorities had cited a lack of first-instance judges and procedural backlogs as the reason, non-governmental organizations and human rights treaty bodies had pointed to endemic corruption, bureaucratic inertia and undue political interference that were undermining the judicial system. The backlog of cases had been compounded by the coronavirus disease (COVID-19) pandemic in 2020 and 2021. He wished to know whether any measures were being envisaged to reduce the number of pretrial detainees, thereby relieving overcrowding and, above all, upholding their rights.

18. General conditions in prisons and detention centres were shocking. In addition to overcrowding, there were problems of inadequate infrastructure – which had played a role in many of the high numbers of reported deaths in prison – poor medical care and shortages of food and water. Most prisons were old and had not been maintained, and tens of thousands of people were locked up in abject conditions; in addition, the lack of medical staff and supplies had led to many inmates dying from preventable diseases. He asked the delegation to provide an inventory of prison infrastructure, and to indicate what measures were planned to improve it. In addition, he wished to know what measures were being considered to remedy the deplorable lack of medical care.

19. Information should also be provided on the total number of deaths in prison, together with the cause of death. Details of cases of violence between inmates, and of prison staff

being violent towards – and causing the death of – inmates, as had been reported by civil society representatives, should also be provided.

20. Women and children in prisons were supposed to be governed by specific rules. However, some prisons had no facilities for pregnant and breastfeeding women, and there were very few rules to ensure that pregnant women received ongoing care. The Committee had received reports of a lack of separation in prison between minors and adults, between women and men, and between convicted prisoners and pretrial detainees. It had also been claimed that no adaptations were made for prisoners with disabilities. He asked if the delegation could provide detailed information in response to those allegations.

21. Information should also be provided on how the legal provisions governing the powers of judges to inspect non-penitentiary places of detention, such as police stations, were implemented in practice. The power to inspect prisons themselves fell to the National Human Rights Commission, but it was assigned no resources for that purpose, and the inspections were therefore not carried out. The Government had nevertheless ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, under which States parties were obliged to establish a national preventive mechanism authorized to inspect places of deprivation of liberty with a view to preventing acts of ill-treatment and torture. While a national preventive mechanism had been established, the requirement that it should be totally independent had not been met; indeed, its representatives were part of the State party's delegation in that very room. He wished to know what measures could be introduced to ensure the mechanism's independence and to enable it to carry out its functions in line with the Optional Protocol, and whether the State party would accept a visit by the Subcommittee on Prevention of Torture.

22. There were reports of a high number of convicted prisoners on death row. While the death penalty was not prohibited under the Convention against Torture, the effects of a death sentence, including being held on death row, were considered by the Committee, and by other international human rights bodies, to amount to inhuman treatment. While a moratorium on executions had apparently been introduced, the death penalty continued to be handed down and the convicted person could not be sure that the sentence would not be carried out; they were thus held in detention on death row, which amounted to ill-treatment. He wondered whether it would be possible to commute those death sentences to prison sentences under the relevant legislation adopted in 2019.

23. Recalling that legislation on the rights of the child applied in only 26 states, he would like to know whether the remaining 10 states were ruled by sharia, under which young persons who had attained puberty could be sentenced to death. He would also like to know whether the moratorium on executions applied to death penalties handed down under sharia, for example for sexual relations between persons of the same sex. Were judges in Nigeria able to hand down the death penalty to minors under the age of 18? While the National Human Rights Commission had stated that the most recent execution had been in 2013, other reports had said it had been as recent as 2016; it was essential to clarify that discrepancy.

24. A large number of Nigerian states had no specific legislation prohibiting sexual and sexist violence, despite the fact that gender-based violence and femicide were underreported and widespread throughout Nigeria. Female genital mutilation continued to be practised, in the absence of any legal framework or firm action by the authorities. He wished to receive information on the rates of violence against women, particularly femicide, and on any measures taken to protect women. Information should also be provided on the rates of maternal mortality, which were among the highest in the world. Unsafe abortions and the lack of post-abortion care remained the main cause of preventable maternal mortality, accounting for approximately 20 to 40 per cent of all maternal deaths. Since the start of the Boko Haram insurgency, the number of abortions had reportedly risen in northern Nigeria; most of them had been carried out illegally, in light of the strict limitations placed on possible grounds for abortion. He wished to know whether the Government envisaged extending the grounds for abortion to include, for example, cases of sexual crimes committed against women. Recalling the recommendation by the Committee on the Elimination of Discrimination against Women in 2017 that Nigeria should step up its efforts to reduce maternal mortality rates and amend its legislation to legalize abortion on grounds including

rape and incest, he asked whether any measures had been introduced to that end, and if not, why not.

25. **Ms. Belmir** (Country Rapporteur) said that gender-based violence, perpetrated mainly by Boko Haram but also by soldiers of the Civilian Joint Task Force and other state agents, was endemic in Nigeria. The number of victims continued to increase year on year. While some perpetrators had been convicted, most went unpunished. The State party did not appear to be addressing the problem in a determined manner, despite its legal obligation to do so. While legislation prohibiting violence, including gender-based violence, had been adopted by some states in 2015, gender-based violence and rape were widespread in those states that had chosen not to adopt it.

26. The kidnapping of schoolgirls by Boko Haram had been widely reported on. In April 2014, 276 girls had been abducted in Chibok, and in 2018, 110 schoolgirls had been abducted in Dapchi. Many of the victims had been released, but five of the girls kidnapped in Dapchi had reportedly been killed, and one girl, who had refused to convert to Islam, was still being held prisoner. The choice generally offered to the girls kidnapped by Boko Haram was to convert to Islam, marry their captors or face enslavement.

27. Boko Haram also reportedly targeted camps for internally displaced persons, subjecting large numbers of women and girls to rape and kidnapping. Victims were denied their right to redress and were unable to follow up on complaints reported to the police, in part because of restrictions on movement outside the camps. Efforts to investigate and prosecute offences committed by suspected members of Boko Haram were inadequate. Between October 2017 and July 2018, 575 suspects had faced trial; the majority of them had eventually been discharged owing to insufficient evidence against them.

28. She would welcome an update on the pledge by state governors to declare a state of emergency as a means of combating rape and gender-based violence against women and girls and imposing harsher penalties on the perpetrators of such offences, including members of Boko Haram. There had been reports that humanitarian workers had been targeted and attacked; she would be grateful for the delegation's response to those accounts. It would be helpful to hear about the State's efforts to ensure that members of Boko Haram, the Civilian Joint Task Force and other non-State groups who committed offences were held to account for their actions, in line with the State party's responsibilities under article 2 of the Convention.

29. The Committee was concerned at reports that law enforcement officers and members of the armed forces enjoyed impunity for their actions and that the authorities regularly ignored judicial instructions, including an order issued by the Federal High Court for military officials to be brought to justice for their alleged role in the killing of three police officers in Taraba State in 2019. The Committee had also heard reports that law enforcement officials had opened fire on protesters armed only with sticks and stones. While torture was prohibited under the Anti-Torture Act, much greater efforts were required from the State party to address the impunity with which many serious offences were met and to put an end to human rights violations committed by armed groups. For example, the role of the National Human Rights Commission needed to be strengthened, and the report and recommendations on the reform of the Special Anti-Robbery Squad should be published.

30. In some states, parents were permitted to use corporal punishment on their children, and the age of majority was 16 years, despite being set at 18 years at the federal level. The Committee had heard reports of cases in which children aged 16 years had been sentenced to flogging or amputation. She wished to know about the obstacles preventing the authorities from ensuring that the Child's Right Act was effectively implemented in all parts of the country, including those states that operated under sharia.

31. **Mr. Rodríguez-Pinzón**, noting that rehabilitation services for victims of torture were patchy and were provided mainly by private organizations, said that it would be interesting to hear about any plans to modify the Anti-Torture Act to include provisions on rehabilitation services. It would also be helpful to receive information on any initiatives aimed at establishing local and national rehabilitation programmes and improving financial and other forms of support for civil society organizations that provided rehabilitation services. The judicial panels of inquiry set up to investigate the actions of the Special Anti-Robbery Squad

might present an opportunity to provide appropriate compensation to victims. He would welcome details of how the panels operated and of the resources that were allocated to them. Was there sufficient political will to ensure that they were able to operate effectively, process the complaints they received and offer comprehensive reparations to victims?

32. **Mr. Tuzmukhamedov** said that he would welcome clarification of whether the State party's shift towards abstaining in General Assembly votes on a moratorium on the death penalty, rather than voting against resolutions on that issue, indicated a shift in the Government's position. He wished to know if persons sentenced to death had unimpeded access to justice, including legal counsel. It was unclear whether the State party had in place a comprehensive judicial review system for cases involving persons who had been sentenced to death and, if it did, whether any death sentences had been commuted as a result of a judicial review. He would appreciate details of the number of death sentences handed down since the last recorded execution, which had reportedly taken place in 2016, and of cases in which persons under the age of 18 years had been sentenced to death.

33. **Ms. Racu** said that apparently no official statistics existed on the number of deaths in custody. According to Amnesty International, 20,000 persons had been arbitrarily detained between 2009 and 2015, of whom 7,000 had died in custody. She would therefore appreciate it if the delegation could provide details of investigations into deaths in custody, including those which had occurred in military detention camps. In particular, the Committee wished to know how many investigations had been carried out in recent years and what their outcome had been. It would also like to be updated on measures to prevent violence among prisoners, self-mutilation and suicide. What steps were taken to disarm inmates, prevent weapons from getting into prisons, enhance security and increase surveillance inside detention facilities? Lastly, she wished to know what had been done to investigate and punish acts of violence and any excessive use of force in correctional facilities.

The meeting was suspended at 11.55 a.m. and resumed at 12.30 p.m.

34. **Mr. Adejola** (Nigeria) said that his country's attitude to its reporting obligations under the Convention had been regrettable. The current Government was in the process of reforming and restructuring the National Committee against Torture to make it more independent and responsive and was committed to more proactive engagement with the Committee. He sincerely hoped that the Committee would allow his delegation to submit a report in the coming months.

35. **Mr. Fapohunda** (Nigeria) said the Government of Nigeria recognized the need for immediate, radical reform of the criminal justice system. The process had been slow owing to the federal structure of a country where the different political interests and religions of 36 states had to be taken into account. The new Administration of Criminal Justice Act sought to respond to all the concerns expressed by the Country Rapporteur. A law enacted by the Federal Government created a framework within which States could adopt such laws as they saw fit. The Act was in fact a piece of best-practice legislation that sought to reform specific areas of the criminal justice system. One of those areas concerned remedies for victims of crime. The previous criminal justice system had established only the rights of offenders but had made no provision for remedies for victims of crime. The new system placed those victims' rights and interests at the heart of the regime. The Act also made provision for reparations. To ensure its universal application throughout the country, states had been required to pass corresponding laws. Many of them had already done so.

36. For years, prisons had not undergone the holistic reform that was necessary. However, in 2019, the Prisons Act had been replaced with the Correctional Service Act, which had been signed into law by the President. The new Act was a radical departure, since it reflected a new philosophy that encompassed reparation and eschewed the punitive approach behind incarceration. It also explicitly established the rights of inmates, especially those who had been awaiting trial for a long time. Moreover, the Act empowered chief judges of a state to order the release of persons who had spent more than ten years on death row. A copy of the new Act would be forwarded to the Committee.

37. The Federal Government had likewise embarked on several institutional reforms, one of which had been a programme to reduce overcrowding in prisons. It essentially targeted some 56,000 persons who had been remanded in custody. Under the programme, additional

private lawyers had been engaged to provide them with legal representation. That had led to a significant reduction in the number of persons in pretrial detention. He undertook to provide the Committee with a report on the programme which would contain statistics on the number of inmates who had benefited from it countrywide. Criminal justice committees had been set up to develop criminal justice policy at the state level and to ensure that persons awaiting trial, or who had come into conflict with the law, were treated fairly. Furthermore, the chief judges of states had the right to visit places of detention and the power to order the release of persons who had been unlawfully detained. All the state governors and the President had the power under the Constitution to grant pardons, either subject to conditions or unconditionally.

38. Efforts were being made to improve prison officers' conditions of service by ensuring not only the prompt payment of salaries but also the provision of satisfactory accommodation and a good working environment. It was true that several old prisons had been inherited from colonial times. However, over the previous five to six years, a concerted effort had been made to refurbish them or to construct new facilities. Again, the delegation would provide the Committee with details in writing of the prisons which had been refurbished, rebuilt or closed.

39. Over the previous four years, the Government had given much consideration to police reform. It had taken quite a while to achieve broad consensus across the country on a new law to replace the old Police Act, but the Nigeria Police Force (Establishment) Act had been signed into law in 2020. He would make sure that the Committee was provided with a copy. A holistic reform of the police had been achieved through the new Act. Its emphasis on community policing was designed to break down barriers and establish trust and cooperation between citizens and the police. His delegation would provide the Committee with details in writing of how the new Act was working in practice. The Government had also sought to respond to concerns about the poor salary paid to police officers, especially those in the lower ranks. In 2019, the President had ordered an immediate review of the salaries and conditions of service of police officers in an effort to ensure that it was a professional force able to maintain law and order. While the police force was primarily the responsibility of the Federal Government, state governments also played a role, in that it was they who equipped the force and contributed to their allowances.

40. The Special Anti-Robbery Squad (SARS) had been disbanded in response to countrywide protests against its alleged high-handedness. A number of judicial panels of inquiry had been set up across the country as part of an initiative to address citizens' concerns about the handling of the protests. The repression of the #EndSARS movement and how to respond to it had also been on the agenda of the National Economic Council, which had agreed to pay compensation to victims of abuse. Many states had recognized that victims' needs had to be addressed immediately, especially in cases where immediate medical treatment was required. Lagos State had presented its final report on the subject the previous day. The report that would be submitted to the Committee would contain an overview of the action taken.

41. The Government had also devoted great attention to the judiciary. In addition to the Supreme Court and the High Court at the federal level, there were courts of appeal and district or magistrates' courts at the state level. Many people who came into conflict with the law had their cases heard by magistrates. Efforts were therefore being made in some states to reform those courts and make them more accessible. That was an ongoing process moving at a different pace in different States, but it was recognized that the rule of law required a strong judiciary.

42. Current efforts were directed at making the judiciary independent in practice. The purpose of the Judicial (Financial Autonomy) Act was to guarantee that the courts enjoyed genuine independence and financial autonomy. It was not correct to say that judges did not uphold the rights of victims of crime or ignored the excessive use of force by the police and security forces. In several cases, high court judges had awarded substantial damages to such victims. While much still needed to be done to strengthen the judiciary and address delays in the administration of criminal and civil justice, the willingness to carry out reforms existed, as current efforts showed.

43. **The Chair** said that he hoped that the current dialogue marked the beginning of a new stage of cooperation between the Committee and the State party.

The meeting rose at 12.55 p.m.