



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

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Summary record of the 1855th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 17 November 2021, at 3 p.m.

Chair: Mr. Heller

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The meeting was called to order at 3 p.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 (continued)

1. *At the invitation of the Chair, the delegation of Nigeria joined the meeting.*
2. **Mr. Adejola** (Nigeria) said that the Government had taken many practical actions to combat torture, in particular by establishing various legal and institutional frameworks. The recently created Administration of Criminal Justice and Reform Department was responsible, among other things, for monitoring conditions in correctional facilities and for implementing reforms and assessing their effectiveness. In pursuit of those goals, the Department undertook periodic visits to prisons, where it conducted interviews with inmates and officials. It also sought to identify inmates who might be eligible for early release, including older persons, persons suffering from serious illnesses and persons imprisoned for defaulting on payment of fines. The Presidential Advisory Committee on the Prerogative of Mercy also conducted prison visits, as a result of which recommendations had been made to commute death sentences to terms of imprisonment, in 10 cases; to reduce prison terms, in 24 cases; and to issue pardons, in 85 cases. In the case of one pardon, the person concerned had been deceased.
3. With a view to reducing overcrowding in detention facilities, 12,000 inmates had been released from prison and 160 juveniles from borstal homes since 2017. As part of ongoing reforms in the prison sector, correctional facilities had been equipped with craft centres where inmates could learn skills and trades that would be useful to them when they returned to the community. Prisons also offered opportunities for education, thanks to which many inmates had been able to sit examinations for the General Certificate of Education.
4. The Ministry of Justice had recently approved the establishment of a gender-based violence unit, the activities of which were coordinated by an interministerial management committee. That initiative had been replicated across the country at state level.
5. **Mr. Fapohunda** (Nigeria) said that, despite the Government's zero tolerance policy, gender-based violence, particularly violence against women, was still prevalent, not only in areas affected by the insurgency but throughout the country. Much of the violence could be attributed to long-standing cultural practices that predated the country's independence. Simply outlawing such traditional practices would be extremely difficult, and thus the Government's efforts were focusing on education and awareness-raising.
6. At the same time, efforts were being made to implement legal reform, and a number of states had reviewed their criminal statutes and enacted laws specifically intended to combat gender-based violence. For its part, the Nigeria Governors' Forum – a platform that brought together the heads of all the country's 36 states – had declared a state of emergency on gender-based violence and had enjoined all states to make it a policy priority to combat such violence, particularly sexual violence. In response to concerns about sexual violence, the Government had established a sex offender registry and opened a number of sexual assault referral centres. The courts regularly handed down heavy sentences against persons convicted of offences involving gender-based violence.
7. A nationwide anti-torture law had recently been enacted and its implementing regulations were currently being developed. Deaths in custody were treated with the utmost seriousness and, in each instance, an investigation was duly launched. The Government was greatly exercised by the persistent problem of jailbreaks and was acting to ensure that persons who should be in prison remained in prison. As a matter of principle, male and female inmates were never detained together.
8. If, during a trial, a defendant claimed that a statement or confession being tendered by the prosecution had been extracted by torture, the court was required to launch a "trial within a trial" to investigate that claim. The outcome of that process would determine how the rest of the trial would proceed because, if the torture allegations were upheld, the case against the defendant would immediately be dismissed. The National Human Rights Commission and the Legal Aid Council were the two key institutions that assisted persons in detention and

provided remedies for victims of torture. The legal framework governing the Legal Aid Council was currently being reviewed by the National Assembly.

9. The death penalty was admitted under the law and its constitutionality had been upheld by the Supreme Court. However, in 2003, the Government had set up a study group to consider whether that penalty should be maintained or abolished. The group had concluded by proposing that the Government should apply a moratorium on the enforcement of death sentences until, in the words of the group's final report, "the very fundamental lapses in the criminal justice system had been revisited". The Government had acted on the group's advice and a moratorium on the application of the death penalty had largely been observed. Persons against whom a death sentence had been pronounced had an inalienable right to pursue an appeal all the way up to the Supreme Court, which, in several cases, had overturned the sentence.

10. Although the armed forces were engaged in combating insurgency and terrorism across the country, it was not true that the Government had abdicated responsibility for security to the military. Law enforcement remained the responsibility of the police; however, given the seriousness of the terrorist threat, the police did sometimes conduct joint operations with the military and security agencies. With support from international organizations, the National Human Rights Commission ran regular training courses for the armed forces on human rights norms, combating torture and the international commitments of Nigeria in that regard. Human rights desks existed at the Ministry of Defence and in all army formations, where citizens could lodge complaints of abuses committed by military personnel. There was no official government policy that allowed the armed forces to recruit minors.

11. The approach of the authorities was, first and foremost, to prevent torture and ill-treatment from taking place. However, the Government was acutely aware of the serious problems it faced and of the fact that, unfortunately, acts of torture could still occur. In such cases, it strove to ensure the availability of effective, immediate and transparent remedies.

12. **Mr. Touzé** (Country Rapporteur) said that he was not calling into question the legal framework for implementing the Convention in Nigeria but he was concerned about its enforcement and about the practices of the security forces, the administrative authorities and the judiciary. He would like to understand the rationale behind establishing a new department to monitor conditions in correctional facilities when the State party already had a national human rights institution and a national preventive mechanism with the power to conduct visits to places of deprivation of liberty, both of which had stated that they were underfunded. Moreover, the functioning and powers of the national preventive mechanism should be reviewed in order to guarantee its independence and impartiality.

13. It would be useful to discuss what options the State party envisaged to drastically reduce pretrial detention, given that it was the main cause of prison overcrowding. Reiterating that the condition of prison infrastructure in Nigeria was alarming and, in some cases, had caused the death of inmates, he would like to receive information attesting to the major construction and refurbishment works mentioned by the delegation. It was important to bear in mind that prisoners, though they were criminals, were under the permanent authority of the State and, as such, were deserving of special attention.

14. Noting that judges still imposed the death penalty despite the moratorium on executions, he was interested in how the State party intended to ensure that sentencing was in line with policy. He would appreciate data on the number of persons on death row, as well as information on their situation and treatment. In the light of the apparently small number of death sentences being commuted, it would be useful to know on what basis commutation decisions were made.

15. The delegation's assurances notwithstanding, he would appreciate objective information with which to assess to what extent women were held separately from men, and minors from adults, and how the State party ensured that confessions extracted under torture were not used in proceedings.

16. While he understood that some situations might warrant supplementing the police with military personnel, in the case of Nigeria, it appeared that the military was fully substituting itself for the police. That was a concern because the two forces were not bound

by the same rules, so the State party must supervise the law enforcement activities of the military. He would like to know the main findings of the judicial panel of inquiry into the repression of the peaceful demonstration in Lekki on 20 October 2021: according to media accounts, the panel's report seemed to indicate that the operation had in fact been a massacre. He would also like to know whether the State party was aware of the allegations that the military used children in its operations and, if so, what measures had been taken against those responsible.

17. He would invite the delegation to comment on how determined the Government really was to put an end to female genital mutilation and punish those who practised it. Similarly, given the high rate of maternal death, it was disconcerting that the Government did not appear to be willing to take the necessary steps to address the causes of the problem, including by facilitating access to safe abortions.

18. **Ms. Belmir** (Country Rapporteur), referring to questions posed in the first half of the dialogue regarding violations committed by Boko Haram, the security forces and the Civilian Joint Task Force, said that she would appreciate more detailed information on measures taken by the State party to enforce the absolute ban on torture. Further information would also be welcome on the state of emergency that had been declared in relation to rape and gender-based violence and on investigations into abuses by the Special Anti-Robbery Squad. Lastly, judicial reform was one thing, but it was equally, if not more, important to take action to end human rights violations and provide reparations to victims.

19. **Mr. Tuzmukhamedov**, recalling that the time which a person sentenced to death spent in limbo could amount to cruel, degrading and inhuman treatment, asked how many death sentences had been handed down since the last recorded execution, how many inmates were on death row and what the minimum age for being sentenced to death was.

20. **Mr. Rodríguez-Pinzón** said that the judicial panels of inquiry, as consultative spaces composed of government and civil society representatives, presented an excellent opportunity to discuss reparations for victims of torture, in particular rehabilitation, with a view to formulating a national policy on the topic.

The meeting was suspended at 4 p.m. and resumed at 4.15 p.m.

21. **Mr. Fapohunda** (Nigeria) said that, with respect to legal reform, a great deal of effort had gone into updating laws from the country's colonial past so that they responded to the current needs of Nigerians and addressed the promotion and protection of human rights. Because of the country's federal system of government, the Federal Government and the states shared jurisdiction in the area of criminal justice; the Federal Government had authority in the Federal Capital Territory, and the 36 states had authority within their respective territories. While prisons were federal institutions, the federal and state governments had joint responsibility for their oversight, inspection, funding and support.

22. The Government recognized the importance of addressing overcrowding in prisons – which was not only a human rights issue, but sometimes also a national security one – and had taken steps to reduce, to the extent possible, the number of people in prison, including in the context of the coronavirus disease (COVID-19) pandemic. It should be clarified that the figures regarding commutation of sentences that the delegation had provided earlier in the meeting reflected only sentences commuted at the federal level. The states released prisoners and commuted sentences on a daily basis. Furthermore, the chief judge of each state was empowered to enter prisons and order the release of anyone who had been improperly incarcerated.

23. The Federal Government and the 36 state governors had all agreed to declare a state of emergency on the issue of gender-based violence. The Government's approach to addressing female genital mutilation focused on raising the public's awareness of its human rights and public health aspects. Various steps had been taken to reduce maternal mortality: the budget for state health ministries had been increased and primary health-care centres were now available across the country. The ongoing debate on the decriminalization of abortion was a contentious one, given the multiple cultures present in the country and the variety of religious beliefs.

24. The delegation would appreciate further information from the Committee on the cases it had referred to in which prison infrastructure was said to have caused the deaths of prisoners and on the prisons that were said to hold both male and female inmates. Men and women were not placed in the same prisons.

25. Under Nigerian law, an individual on trial could retract a statement given at the time of interrogation. A moratorium was in place on the death penalty, and there continued to be a heated debate in the country on the efficacy of the penalty. Persons sentenced to death could apply for clemency. The country's President and the 36 state governors were legally empowered to commute sentences. The correctional services were tasked with providing avenues for deserving persons with death sentences to apply for clemency. Such persons could obtain assistance both through the correctional services' legal offices and through non-governmental organizations. The age of criminal responsibility was 18; persons under the age of 18 could not therefore be sentenced to death.

26. He wished to encourage the Committee to treat the news accounts of the judicial panel of inquiry's report on the 20 October 2021 demonstration in Lekki with caution, as that report had been leaked and was unofficial. It was the Government's policy that no children should be used, under any circumstances, by the military or any other security agency in maintaining law and order or dealing with insurgency situations. He wished to draw the Committee's attention to the removal of the Civilian Joint Task Force from the list of parties engaging in violations against children in the Secretary-General's 2021 report on children and armed conflict.

27. Claims relating to the commission of acts of torture or human rights violations by Boko Haram and members of the armed forces were currently before the International Criminal Court, and the Government was preparing its response. The Government recognized the importance of civil society participation. Civil society actors sometimes accounted for the majority of members on the human rights panels set up by the Government.

28. **Mr. Touzé** said that, regardless of the country's federal structure, it was Nigeria that was a party to the Convention and therefore Nigeria that must ensure that its obligations under the Convention were met. It would be helpful to know how the Government responded to reports that the Civilian Joint Task Force had recruited more than 1,600 child soldiers, given the ties between that entity and the national authorities.

29. **Ms. Belmir** said that the wait for death-row inmates to have their sentences commuted was a lengthy one. Although minors could not be sentenced to death, the definition of who was a minor varied from region to region. The definition of the age of majority should be made uniform across the country.

30. **The Chair** said he hoped that the dialogue that had just taken place would lead to greater cooperation between the State party and the Committee. In its concluding observations, the Committee would make recommendations on the issues that it considered most pressing, and the State party should inform the Committee of its follow-up on those recommendations within one year. The purpose of the observations was not to judge the State party but to help it comply with its obligations under the Convention.

31. **Mr. Adejola** (Nigeria) said he hoped that a new chapter of cooperation was beginning between the Committee and the State party. His country remained committed to the ideals of the Convention and the cause of the Committee.

The meeting rose at 4.50 p.m.