



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

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**Consideration of reports submitted by States parties  
under article 40 of the Covenant**

**List of issues in the absence of the second periodic report of  
Nigeria**

**Addendum**

**Replies of Nigeria to the list of issues\***

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\* The present document is being issued without formal editing.



## **Implementation of the International Covenant on Civil and Political rights (ICCPR) in Nigeria**

### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

1. The International Covenant on Civil and Political Rights (ICCPR) is not domesticated in Nigeria in accordance with Section 12 of the Nigerian Constitution (as amended). However, the provisions of the Covenant form a major part of the country's domestic laws. Examples include Chapter four of the Constitution which deals with the protection of civil and political rights. Other domestic laws which protect civil liberties and fundamental freedoms include Violence Against Persons (Prohibition) (VAP) Act, 2017; Administration of Criminal Justice Act, (ACJA) 2015; Anti Torture Act, 2017; Freedom of Information Act, (FOIA) 2011, Terrorism (Prevention) (TPA) Act, 2011 as amended; National Human Rights Commission (NHRC) Act, 1995 as amended; Legal Aid Council of Nigeria (Amendment) (LACN) Act, 2012; The African Charter on Human and Peoples Rights (Ratification and Enforcement) Act CAP A9, Laws of the Federation of Nigeria (LFN)2004.

2. The National Human Rights Commission Act, 1995, as amended, has direct reference to the ICCPR as one of the international human rights instruments to benchmark the mandate of the Commission in the promotion and protection of human rights in Nigeria. The Commission and other government agencies have a very effective sensitization programme on human rights that permeates the nooks and crannies of the country. For instance, there is the National Orientation Agency (NOA), though a Federal Government department, it has offices in the 774 local government areas of the country. Besides, the Federal and the State Governments have radio and television stations with rich contents on human rights education.

3. Despite the fact that the provisions of the Covenant cannot be invoked directly before the courts, any international human rights treaty ratified by Nigeria enjoys the force of persuasion before domestic courts. There are plethora of cases in Nigerian courts where the courts were persuaded by the provisions of international human rights treaties. Also, the Chief Justice of Nigeria has put in place robust Fundamental Human Rights Enforcement Procedure (FHREP) rules which have simplified enforcement of the provisions of the fundamental human rights sections in the Constitution. The overriding objectives of the FHREP rules include respect for the Universal Declaration of Human Rights and other instruments in the United Nations Human Rights System.

4. The Nigerian Bar Association (NBA), a body of legal practitioners, during its Annual Conference, plays host to agencies such as the National Human Rights Commission (NHRC), Legal Aid Council, Council for Legal Education. At the NBA annual conference, these agencies present their annual score cards for scrutiny by the NBA, and the implementation of the provision of the Covenant by the various agencies of Government are assessed by the body.

5. Although the Nigerian Constitution stands on the application of three legal systems: the received English law, Islamic law and Native law and Custom. Sections 1 (3) and 4 (5) provide that if any other law either at the federal or state level is inconsistent with the provisions of the Constitution, the Constitution shall prevail and that other law shall, to the extent of the inconsistency, be void. Rights protected by the Covenant are mainly guaranteed by chapter four of the Constitution. In a situation where customary law, Islamic law or any other law is inconsistent with the Constitution, the Constitution prevails.

6. The National Human Rights Commission was established by the National Human Rights Commission Act of 1995, (as amended), for the promotion and protection of human rights. The Commission presently enjoys 'A' Status ranking with the Global Alliance of National Human Rights Institutions. It has a broad mandate to deal with all matters relating to the promotion and protection of human rights in Nigeria as guaranteed by the Nigerian

Constitution, international human rights instruments, including the ICCPR and regional human rights instruments to which Nigeria is a party. The Commission, as at January, 2019, has expanded its offices nation-wide from twenty-four to thirty-six. It now has offices in all the states of the Federation, including the Federal Capital Territory.

7. The NHRC is headed by an Executive Secretary who is responsible for the day to day administration of the Commission and the implementation of the decisions of its Governing Council. The Executive Secretary must be a legal practitioner with not less than twenty years' post-qualification experience in international human rights law and mechanisms. He is appointed by the President subject to confirmation by the Senate the upper arm of the Parliament. The Commission also has a Governing Council representing a variety of interests in the country and with requisite experience in international human rights practice. The Governing Council is responsible for the discharge of the functions of the Commission.

8. Members of the Governing Council are appointed by the President upon the recommendation of the Attorney-General of the Federation and Minister of justice, subject to confirmation by the Senate. The same process applies to the removal of members of the Council. The NHRC has Standing Orders and Rules of Procedure that guide its operation, including management of cases and complaints on alleged violation of human rights. The Commission enjoys both administrative and financial autonomy as its funds is a direct charge on the Consolidated Revenue Fund (CRF) of the Federation. It is not subject to the control of any other government agency, except as it relates to transparency and accountability.

9. Section 6 (1) of its enabling law gives the Commission the power to conduct its investigations and inquiries in such manner as it considers appropriate while Section 6 (3) provides that the Commission shall not be subject to the direction or control of any other authority or person. The staff strength of the Commission as at February, 2019 is nine hundred (900).

**The fight against corruption and natural resources management  
(arts. 1–2 and 25)**

10. In its fight against corruption, Nigeria is guided by the Constitution and numerous legal frameworks. Sections 15 (5) and 16 (1) (a) and (b) of the Constitution prohibits all corrupt practices and abuse of power. Governments at all levels are committed to harnessing the resources of the nation in such manner as to secure the maximum welfare, freedom and happiness of the citizens on the basis of social justice and equality of opportunity. Besides the Constitutional provisions, other laws that are in place to fight corruption include:

- Criminal and Penal Codes;
- Independent Corrupt Practices and other related Offences Commission (ICPC) Act, 2000;
- Economic and Financial Crimes Commission (EFCC) Act, 2004;
- Code of Conduct Bureau and Tribunal Act (Laws of the Federation of Nigeria, 2004);
- Public Procurement Act, 2017;
- Fiscal Responsibility Act, 2007;
- Freedom of Information Act, 2011;
- Money Laundering Prohibition Act, 2011; and
- Administration of Criminal Justice Act, 2015 to enhance speedy dispensation of criminal cases including corruption related cases. The Nigerian judiciary has also put in place the Corruption and Financial Crimes Cases Trial Monitoring Committee to monitor progress of corruption cases in Courts.

11. Nigeria has initiated policies aimed at discouraging corrupt practices especially in the public sector for efficient service delivery and to quicken sustainable national development. Some of these policies are:

- (a) The Due Process Initiative which led to the enactment of the Public Procurement Act and the establishment of Bureau of Public Procurement;
- (b) Government Integrated Financial Management Information System (GIFMIS);
- (c) Integrated Personnel and Payroll Information System (IPPIS);
- (d) Treasury Single Account (TSA);
- (e) Bank Verification Number (BVN);
- (f) Executive Order VI on preservation of suspicious assets;
- (g) The Whistle Blowing Initiative;
- (h) Asset declaration by public servants and elected officers; and
- (i) Establishment of Financial Intelligence Unit.

12. These initiatives leverage information and communication technology to make public finance more efficient and transparent. The Federal Government since 2015 has made tremendous savings as a result of these initiatives and these resources have been expended on critical infrastructure such as railways, roads and social protection.

13. Other initiatives by government aimed at combating corruption in the public sector include:

- (a) The development of National Anti-Corruption Strategy;
- (b) Participation in the Open Government Partnership (OGP) since 2016 to make government more open, accountable and responsive to citizens. The alliance is a partnership between government departments and the civil society on specific commitments geared towards fiscal transparency;
- (c) The Proceeds of Crime Bill (2017) which is being considered by the National Assembly. The Bill if passed into law will complement the existing legal and institutional frameworks for the fight against corruption;
- (d) Nigeria Extractive Industry Transparency Initiative; and
- (e) Mutual Legal Assistance in Criminal Matters Act, 2017. The law is aimed at:
  - Assisting Nigeria to repatriate looted funds and other proceeds of crime in foreign countries;
  - Enhancing effective prosecution of border crimes; and
  - Enabling Nigeria to obtain evidence, identify suspects and witnesses for the purpose of prosecuting suspected corrupt persons.

**State of emergency & counter-terrorism measures. (arts. 2, 4, 7, 9 & 14)**

14. The state of emergency proclaimed by the Federal Government of Nigeria in May, 2013 was not only in accordance with Section 305 of the Nigerian Constitution but also in full compliance with Section 45 of the Constitution. Military operations in the three States of Borno, Adamawa and Yobe during the period of emergency and beyond were guided by the protection and guarantee of human rights provided for in Sections 33–46 of the Constitution, international principles on low intensity conflicts, international human rights and humanitarian laws. The Armed Forces have ensured that only legally permissible arsenals are deployed and used in the theatre of operations. Additionally, the military ensures that only minimum force necessary to capture a desired military objective is used at all times.

15. All reported acts of unprofessional conduct and human rights violations against troops were promptly investigated and appropriate sanctions meted out on those found

guilty in accordance with the Armed Forces Act and the Constitution. The military has continually educated its troops on the implication of unprofessional conduct and violations of human rights and humanitarian laws. The Code of Conduct and Rules of Engagement were revised and circulated to all units and formations and troops were constantly trained on adherence to these protocols. There is also the establishment of Directorate of Military/Civil Relations and creation of Human Rights Desk in the Armed Forces.

16. Furthermore, as a result of persistent allegations of human rights violations against troops deployed in internal security operations, the Federal Government set up a Special Presidential Investigation Panel in August, 2017 with the following terms of reference:

- (a) Review extant rules of engagement applied in the Armed Forces of Nigeria and extent of compliance thereto;
- (b) Investigate matters of conduct and discipline in the Armed Forces in local conflicts and insurgency; and
- (c) Recommend means of preventing violation of international human rights and humanitarian laws in conflict situations.

17. Membership of the aforementioned Panel includes the Armed Forces, the National Human Rights Commission and civil society. The Chairman of the Panel is a serving Judge of the Court of Appeal.

18. The Report of the Special Presidential Investigation Panel has been submitted to the Federal Government and Committee to review the Report has been completed and will soon conclude its assignment.

19. Other means to ensure strict compliance with Constitutional provisions on protection of human rights, Nigeria's international human rights and international humanitarian laws obligations include strengthening civil-military cooperation in the fight against terrorism, insurgency and other internal security operations through:

- (a) Review of training curriculum for the military and law enforcement agencies to include modules on international law on civilian protection during internal security operations;
- (b) Establishment of Directorates of Civil-Military Affairs headed by two-star generals in the Office of the Chief of Defence Staff, the Nigerian Army, Nigerian Air Force and the Nigerian Navy;
- (c) Appointment of a Human Rights Adviser in the Office of the Chief of Defence Staff; and
- (d) Establishment of Human Rights Desk at the headquarters and the divisions of the Nigerian Army.

20. The National Human Rights Commission, with the support of the UN country office, monitors regularly the conduct of the Armed Forces and other law enforcement agencies operating in the Northeast and had initiated a regular Human Rights Dialogue with the military since August, 2015. The objectives of the Dialogue include:

- (a) Improving awareness of respect for human rights by the Armed Forces;
- (b) Prevention of human rights violations by the armed forces during internal security operations;
- (c) Speedy investigation of alleged human rights violations by military personnel, including holding perpetrators accountable;
- (d) Mainstreaming respect for human rights and humanitarian laws in military operations; and
- (e) Providing a sustainability platform for the civil society to constructively engage the Nigerian Armed Forces.

21. The major law in Nigeria in combatting terrorism is the Terrorism (Prevention) Act of 2011 as amended in 2013. Section 2 of the law defines terrorism and terrorist activities. In part, the section states:

“Act of terrorism means an act which is deliberately done with malice, aforethought and which:

- (a) May seriously harm or damage a country or an international organization; and
- (b) Is intended or can reasonably be regarded as having been intended to:
  - i. Unduly compel a government or international organization to perform or abstain from performing any act;
  - ii. Seriously intimidate a population; and
  - iii. Seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or an international organization.”

#### **Non-discrimination (arts 2–3, 7, 9 and 14)**

22. Besides Sections 14 (3) and (4) and 42 of the Constitution that prohibit discrimination of any kind, there is the Federal Character Commission Act which spelt out in details, guidelines for distribution of public appointments as well as distribution of social facilities across the country. The Federal Government also has in place Guiding Principles for the distribution of equal percentage of persons from each state of the federation to occupy public positions at the national level. Gender and other vulnerable groups such as persons with disabilities are taken care of in the guidelines.

23. In 2014, the Government of Nigeria, enacted the HIV/AIDS (Anti-Discrimination Act). The objectives of the Act, among other things are to eliminate all forms of discrimination based on HIV status and to give effect to human rights guaranteed in the Constitution and Nigeria’s obligations under regional and international human rights instruments ratified by Nigeria with respect to the rights of persons living with HIV/AIDS. Nigeria has also enacted the Prohibition of Discrimination Against Persons Living with Disabilities Act of 2019 which eliminates all forms of discrimination against persons living with disabilities.

24. Same-sex marriage is not provided for in Nigerian laws because it is against the country’s National values. A fundamental human rights poll conducted by NOI Polls Ltd on the Anti same-sex marriage Act has shown that 92% of Nigerians support the law. Sexual and gender minorities are not visible in Nigeria and there are no officially registered associations of gay and lesbians.

25. In spite of the Same-Sex Marriage (Prohibition) Act which criminalizes open display of gay and lesbianism and prohibits same-sex marriage, there is no case of discrimination on basis of sexual identity. Isolated cases of stigmatization and violence are addressed in line with the civil liberties of the Constitution and other relevant laws.

#### **Gender Equality (arts 2–3, 14 and 25–26)**

26. The Gender and Equal Opportunities Bill is still being considered by the National Assembly. Stakeholders are working assiduously to ensure the passage of the Bill into law. There is also a Bill before the National Assembly to legislate certain percentage of elective and appointive positions in the public sphere to women. It is important to stress that women are not discriminated against in Nigeria on the basis of any law but due to cultural practices.

27. There are many laws and policies in Nigeria that promote gender equality and aimed at protecting the rights of women and the girl-child. Some of these laws include:

- 1999 Constitution (as amended);
- Child Rights Act (2003);
- Edo State Law on Female Genital Mutilation (2000);

- Anambra State Gender and Equal Opportunities Law (2007);
- Imo State Gender and Equal Opportunities Law (2007);
- Lagos State Protection against Domestic Violence Law (2007);
- Ekiti State Gender Based Violence (Prohibition) Law (2011);
- Rivers State Dehumanizing and Harmful Traditional Practices Law (2003); and
- Violence Against Persons (Prohibition) Act (VAPP), (2015).

#### **Violence Against women and Harmful Practices (arts 2–3, 7 and 26)**

28. Paragraphs 25 and 26 above have addressed the aforementioned issues. In addition, efforts are ongoing in all the states of the Federation to ensure the adoption of the Violence Against Persons (Prohibition) Act. Some states have the law in place even before the Federal enactment in 2015. Some of these states are Anambra, Ekiti, Lagos, Imo, Edo, Rivers, Cross River among others. The National Agency for the Prohibition of Trafficking in Persons (NAPTIP), which has the mandate of implementing the VAPP Act, is working with stakeholders for its effective implementation across the country, particularly by ensuring that States adopt the law.

#### **Maternal Mortality, Reproductive Rights and Termination of Pregnancy (arts 2–3 and 6–7)**

29. Nigeria is committed to promoting and protecting the rights of Nigerians to basic health care including reduction of maternal mortality and reproductive rights. In this regard, government has put in place many legislative and policy frameworks. These include the National Health Act, 2014, National Health Policy 2016, National Strategic Health Development Plan (2010–2015) and 2018–2022. Within the Health Development Plans, there is campaign on accelerated reduction in maternal mortality to create awareness in promoting maternal and child health.

30. There is the institutionalization of Bi-annual Maternal Newborn and Child Health Week for improving maternal and child health services. Government has increased its funding on family planning by 300% since 2013 and this covers family planning programme, child survival programme and an action plan for reducing child mortality in Nigeria to at most 20/1000 live birth by the year 2035. In April 2019, the Federal Government declared a state of emergency on maternal and infant mortality to be able to eradicate these phenomena in the country.

#### **Death Penalty (art 6–7 and 14)**

31. Death penalty is still part of the Nigerian law. Section 33 (1) of the Nigerian Constitution provides that “*every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria*”. A person convicted to death can only be executed after going through the criminal justice process including trials at three levels of court; trial court, appellate court and the Supreme Court.

32. Offences that are punishable by death are very few and include murder, treason, directing or presiding at an unlawful trial by ordeal from which death results and armed robbery. However, Nigeria has a moratorium on death sentence and no death penalty has been carried out for a long time in the country. As at the time of compiling these responses, there are 2,672 prisoners on the death row in the country, comprising 2,627 males and 45 females. The last execution in a Nigerian prison was in 2013. It is however, instructive to note that cases of prisoners on death row are periodically reviewed by the Presidential and State Committees on Prerogative of Mercy and their sentences are either commuted to life or long-term imprisonment.

#### **Excessive Use of Force by Law Enforcement Agents (arts, 6–7, 9 and 114)**

33. Section 34 (1) of the Constitution prohibits the use of torture and any other cruel or degrading treatment in any form. Nigeria has also enacted the Anti-Torture Act in 2017

which criminalizes any form of torture. The Armed Forces Act also provides guidelines for the use of force by military personnel and unauthorized use of force is criminalized in the Act. All law enforcement agencies and the military have codes of conduct and rules of engagement guiding the use of force, particularly in internal security operations. These guidelines are in conformity with the UN Basic Principles on the use of Force and Firearms by Law Enforcement Officials of 1990.

34. Allegations of excessive use of force by the Police or the military are always promptly investigated and perpetrators sanctioned accordingly. Government has paid damages awarded by courts and the National Human Rights Commission for excessive use of force resulting to death by law enforcement agencies.

#### **Intercommunal and Ethnic-based Violence (articles 3, 6, 7, 17, 24 and 26)**

35. The Government of Nigeria has deployed adequate security forces to all areas where intercommunal and ethnic-based violence has occurred in the country. Perpetrators are being arrested and prosecuted in the court of law. Town hall meetings are held regularly by government personnel as well as law enforcement and military personnel with stakeholders for peace building and to ensure harmonious and peaceful coexistence in those communities. Allegations of excessive use of force by law enforcement and military operatives are promptly investigated and addressed.

#### **Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty (arts 2, 6–7, 9–10)**

36. The enactment of the Anti-Torture Act of 2017 is in response to Nigeria's obligations under the UN Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and its optional protocol. The Administration of Criminal Justice Act of 2015 on the other hand is a transformative improvement of the criminal justice system which ensures that the Constitutional guarantees of human rights and other legal rights are adhered to throughout the criminal process.

37. The two laws have been widely circulated among critical stakeholders such as federal and state prosecutors, defence counsel, law enforcement agencies and the civil society. Series of trainings have been conducted for these stakeholders. Some state governments have also enacted new criminal justice administration laws using the ACJA (2015) as a model.

38. These laws have been distributed to all police formations across the country with clear instructions for commanders to make them subjects of routine lectures. Their provisions have also been inculcated in the curriculum of all the police training institutions and continuous training on these laws are being held in all police stations across the country.

39. Apart from these laws, the Nigeria Police has developed a Human Rights Practice Manual, which in section 3, provides guidelines for humane treatment of all detained persons. All detained persons are to be treated humanely and no policeman should inflict, instigate or tolerate any act of torture or ill treatment in any circumstance and should also refuse to obey any order to do so.

40. This policy document is intended to provide police officers with a statement of policy on the practice of human rights, Standard Operational Procedure (SOP) for human rights practice by police officers and an understanding of basic human rights standard of good conduct.

41. In Nigeria, the use of confession obtained by torture, or other ill inducement as evidence is prohibited by section 29 of the Evidence Act, 2015. This is respected in practice as the courts conduct trial within trial whenever objection is raised to admission of any confession on such grounds. Section 17 (2) of ACJA as well as other Criminal Procedure Laws of the states have also introduced the procedure of recording confessions in the presence of legal practitioners, officers of the Legal Aid Council, civil society organisations or Justices of Peace. All commands and formations of the Nigeria Police have been directed to comply strictly with these procedures.



42. In spite of the efforts of government and law enforcement institutions to ensure that there is strict adherence to the rule of law and human rights of suspects, there are isolated cases of use of torture or other cruel, inhuman or degrading treatment by some law enforcement operatives, particularly the Special Anti-Robbery Squad (SARS) and other special forces of the Nigeria Police.

43. All reported cases of these allegations are promptly investigated and where the allegations are proven against the perpetrators, appropriate disciplinary measures have been meted on affected officers. Some of these officers are also prosecuted before the courts where necessary and convicted appropriately.

44. Owing to incessant allegations of human rights violations against operatives of the SARS, the Federal Government has restructured the unit to make it more compliant with Nigerian law and the international human rights obligations of the country. The President had also set up a Special Investigation Panel comprising independent experts on police matters, civil society organisations and departments of government that have oversight functions on law enforcement agencies to recommend a comprehensive reform and restructuring of SARS, the Nigeria Police and public safety and security as a whole. Government intends to fully implement the recommendations of the Special Investigation Panel at the conclusion of its assignment.

45. In order to ensure that all cases of allegations of abuse of power made against police officers are promptly investigated and addressed, the Nigeria Police Force established the Police Complaint Rapid Response Unit (PCRRU) in 2015. This is a community-oriented complaint management system using multi-platforms like phone calls, sms, whatsapp and other social media through which complaints from the public are reported and attended to on a 24/7 basis. Complaints are given tracking numbers and feedback given to the reporters after necessary actions are taken. The PCRRU has focal point officers in all the commands and formations of the police who take part in investigation of complaints after which reports are sent to the headquarters for necessary actions. From March 2016 to date, a total of 29 police officers have been dismissed for cases of misconduct based on complaints from the PCRRU while 3 others were awarded other forms of punishment.

46. The National Human Rights Commission is empowered by law to conduct regular prison audit as well as that of other detention facilities in the country. The Commission pays visits to the prisons and other detention facilities across the country on a regular basis and sends its reports and recommendations to appropriate authorities. The Commission also publishes its report for the consumption of members of the public. Section 35 of the Administration of Criminal Justice Act empower magistrates to visit police stations at least once every month to monitor the conditions of detained persons. There are also the Federal and States committees on administration of criminal justice which conduct regular visits to the prisons and other detention facilities. These visits ensure that the rights of suspects are reviewed and necessary actions taken where any breach of law is observed.

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