



# International Covenant on Civil and Political Rights

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## Human Rights Committee

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

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

1. With reference to section 12 of the Constitution, please clarify the status of the Covenant in the national legal system and, in particular, whether its provisions can be invoked directly before the courts. Please provide information on the practical application of the provisions of the Covenant in the national legal system, including examples of cases in which the provisions of the Covenant have been referred to by national courts. With reference to the federal structure of the State party, please provide information on the measures taken to ensure that both federal and state legislations are in accordance with the Covenant. Please provide information on the measures taken to ensure that the different legal systems (Islamic law, common law and customary law) comply with the Covenant. Please provide information on the availability and accessibility of remedies for individuals claiming violations of the rights enshrined in the Covenant and the Constitution. Please specify the measures taken to ensure that information on the Covenant is disseminated among judges, lawyers, prosecutors, law enforcement officials and the public.
2. Please provide information on the National Human Rights Commission and specify the process of selection, appointment and dismissal of its members, its powers, staffing levels, offices outside of the state capitals, budget and the actions it has already taken to protect Covenant rights. Please also provide information on other State human rights institutions and specify the measures to ensure that they have sufficient financial and human resources to carry out their missions.

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

3. Please provide information on the anti-corruption legal framework, on measures to ensure its enforcement and on any other measures aimed at combating corruption that weaken the rule of law and lead to violations of provisions of the Covenant. Please specify the measures to ensure transparent management of natural resources, in particular, oil in accordance with art. 1 (2) of the Covenant.

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\* Adopted by the Committee at its 124th session (8 October–2 November 2018).



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

4. With reference to section 305 of the Constitution, please: (a) provide information on the legal frameworks governing states of emergency; (b) report on the conformity of such regulations with article 4 of the Covenant; and (c) clarify whether derogations from non-derogable provisions of the Covenant during states of emergency are explicitly prohibited. With reference to the state of emergency declared in May 2013 in the States of Adamawa, Borno and Yobe, please comment on allegations that security forces committed serious human rights violations during the state of emergency in the north-east of the country in the context of counter-terrorism measures against Boko Haram, including extrajudicial executions, enforced disappearances and arbitrary detentions. Please provide information on the measures taken to investigate and ensure non-repetition of such violations. With reference to the Terrorism (Prevention) Act of 2011, please provide further information on the counter-terrorism legal frameworks, including the definition of “terrorism” and “terrorist activities” and the legal safeguards for persons suspected of or charged with terrorist activities or related crimes.

### **Non-discrimination (arts. 2–3, 7, 9, 17 and 26)**

5. Please provide information on the national legal framework regarding discrimination. In addition to the Constitutional provisions on discrimination, please indicate whether specific laws or other measures that deal with discrimination exist in the national system and if so please provide details. Please clarify whether national law: (a) provides a definition of discrimination that includes a comprehensive list of prohibited grounds of discrimination, including race, colour, property, birth, sexual orientation, gender identity, language, health, social and other status; (b) covers direct, indirect and intersecting forms of discrimination; and (c) provides for effective judicial and administrative remedies. Describe the measures taken to combat and prevent acts of discrimination, stigmatization and violence specifically against: (a) persons with albinism; (b) persons affected by leprosy; (c) single mothers and children born out of wedlock; (d) persons belonging to minorities, in particular the Hausa, Igbo and Yoruba; (e) persons with disabilities, in particular women with disabilities; and (f) lesbian, gay, bisexual and transgender persons. With regard to the last issue, please indicate whether the State party intends to revise: (a) section 214 of its Criminal Code, which criminalizes sexual acts between persons of the same sex, provides for up to 14 years of imprisonment and assimilates such acts with bestiality; and (b) the Same Sex Marriage (Prohibition) Act of 2014 that prohibits a marriage contract or civil union between persons of the same sex. Please comment on allegations that, since the adoption of the Same Sex Marriage (Prohibition) Act, lesbian, gay, bisexual and transgender persons have been subject to increased harassment, threats and mob violence. Please comment on allegations of torture, sexual violence, arbitrary detention and extortion committed by law enforcement agents on lesbian, gay, bisexual and transgender persons, based on their perceived sexual orientation or gender identity.

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

6. Please provide information on the status and progress made in the adoption of the Gender and Equal Opportunities Bill. Please report on the measures taken to enhance the representation of women in political and public life, including senior leadership and decision-making positions. Please provide information on the measures taken to address women’s access to justice, education and employment, and their land and property rights. With reference to the work of the Nigerian Law Reform Commission, please provide information on the measures aiming at reviewing discriminatory provisions against women, in particular with regard to: (a) the transmission of nationality; and (b) polygamy, repudiation, adultery and inheritance rights in the states that apply sharia law.

### **Violence against women and harmful practices (arts. 2–3, 7 and 26)**

7. With reference to the Violence Against Persons (Prohibition) Act of 2015, please provide information on the measures to ensure its full implementation in all states of the State party and the level of knowledge and understanding of the Act among members of the judiciary, police and general public. Please comment on allegations of sexual violence against women and girls, and provide information on the measures to eradicate impunity for sexual violence, in particular those measures intended to: (a) eradicate taboos and women's fear of being stigmatized and encourage victims to file complaints; (b) provide the police, hospital staff and legal professionals with training on issues related to sexual violence; and (c) assist women victims of violence, in particular by establishing shelters and care facilities. Please report on the measures throughout the State party taken to address, prohibit and eliminate female genital mutilation, early marriage and other harmful traditional practices. Please provide information on the number of complaints, prosecutions and convictions handed down for those practising female genital mutilation.

### **Maternal mortality, reproductive rights and termination of pregnancy (arts. 2–3 and 6–7)**

8. In the light of the high maternal mortality and teenage pregnancy rates, please provide updated statistical data on maternal and infant mortality. Please describe efforts to ensure access to safe and affordable contraceptive methods, as well as to prevent teen pregnancies. Provide information on the measures taken to improve access to health services for pregnant women and respond to allegations that some women seeking maternal health services are detained in hospitals post-delivery or denied access to services owing to failure to pay their bills. Please indicate the estimated annual number of clandestine terminations of pregnancy and indicate whether the State party intends to amend its legislation in order to ensure safe and legal access to abortion in cases in which carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases in which the pregnancy is the result of rape or incest or when it is non-viable.

### **Death penalty (arts. 6–7 and 14)**

9. Please indicate the crimes that remain subject to the death penalty, including under sharia law, and provide information on: (a) the steps to ensure that the death penalty, if imposed, is imposed only for the most serious crimes as specified in article 6 (2) of the Covenant, meaning acts of intentional killing; (b) the methods of execution (including, whether stoning is still used); (c) laws imposing mandatory death sentences; and (d) measures to enforce the prohibition of capital punishment in all states for persons who were under the age of 18 when they committed capital offences. Please comment on the allegation that there are currently more than 2,000 people on death row. Please indicate the number of persons who, in the reporting cycle: (a) have been executed; (b) have been granted pardon; and (c) have been afforded protection under the Vienna Convention on Consular Relations when being sentenced to death abroad. Please provide information on the measures in place to review death sentences pronounced in violation of the right to a fair trial, in particular in cases in which forced confessions were used. Please indicate whether steps have been taken towards establishing an official moratorium with a view to abolishing the death penalty and ratifying the Second Optional Protocol, as recommended by the National Study Group on the Death Penalty.

### **Excessive use of force by law enforcement agents (arts. 6–7, 9 and 14)**

10. Please identify and describe the legal standards under national law on the appropriate use of force and firearms by law enforcement and security forces, during arrest, demonstrations, custody, antiterrorism or anti-poaching operations, and any other circumstances in which force may be used. Please comment on whether laws on the use of force are in conformity with the Basic Principles on the Use of Force and Firearms by Law

Enforcement Officials of 1990. Please comment, in particular, on the compliance of the Criminal Procedure Act of 1945, the Criminal Procedure Code of 1960, the Administration of Criminal Justice Act of 2015 and police order No. 237 with the Basic Principles. Please comment on allegations of brutality among law enforcement agents and of excessive use of force against demonstrators leading to deaths and report particularly on: (a) the alleged killing of more than 150 members and supporters of the Indigenous People of Biafra, during Operation Python Dance, on the occasion of non-violent gatherings between August 2015 and November 2016; and (b) the alleged killing of 350 supporters of the Islamic Movement in Nigeria in response to their barricading of roads blocking the passage of a military convoy in December 2015. Please provide information on: (a) the measures taken to investigate and to ensure prosecution and adequate punishment; and (b) the reparation granted to victims. Please provide further information on any measure to ensure the compliance of law enforcement agents with human rights obligations, to fight impunity and to ensure the accountability of all law enforcement agents.

### **Intercommunal and ethnic-based violence (arts. 3, 6–7, 17, 24 and 26)**

11. In the light of the long-standing conflict between nomadic cattle herders, in particular the Fulani herders and associated militia, and farmers, notably in the middle belt region, which has led to thousands of deaths and displaced persons, please provide information on the measures taken to: (a) ensure safety and security in the region; (b) investigate, prosecute and adequately condemn those responsible and ensure the end of impunity for perpetrators; and (c) provide victims, in particular women and children, with the infrastructure for safe shelters. Please provide information on the number of investigations, prosecutions and convictions, and information on the sentences and reparations awarded to victims. Please respond to allegations that the authorities responsible have received advance warnings of upcoming attacks without taking effective preventive action. Please also respond to allegations of excessive use of force by the Nigerian air force, firing rockets at villages in order to counter spiralling communal violence, which led to the death of at least 35 persons and the destruction of at least 3,000 homes.

### **Conflict with Boko Haram and civilian protection (arts. 2–3, 6–9 and 24)**

12. In the light of the violence and widespread human rights abuses committed by Boko Haram since 2009 in large parts of the north-east of the State party, please provide information on the measures taken to strengthen and extend the protection of the civilian population, in particular from: (a) executions and abductions; (b) torture and other cruel, inhuman or degrading treatment; (c) rape and other forms of sexual violence; (d) the use of children in hostilities; and (e) indiscriminate attacks against civilian and protected objects. Please provide further information on the measures to: (a) rescue all of the “Chibok girls” kidnapped in 2014 and all the persons abducted by Boko Haram, including the oil workers abducted in Magumeri in July 2017; (b) ensure that abducted and released persons are not confused with Boko Haram fighters and charged with terrorism offences; (c) assist and rehabilitate abductees, in particular survivors of sexual violence perpetrated by terrorist groups; and (d) ensure that survivors of sexual violence are not stigmatized. Please indicate all measures to: (a) ensure that all perpetrators of violations of human rights and international humanitarian law are held accountable; and (b) provide victims with appropriate and effective remedies. Please respond to allegations that security forces do not consistently deploy in cases in which civilians come under attack by Boko Haram.

13. Please indicate all measures to ensure that the activities of the Nigerian security forces and the Civilian Joint Task Force are in compliance with the Covenant. Please respond to allegations that, in the course of security operations against Boko Haram, military forces have committed large-scale, serious human rights violations, including: (a) indiscriminate attacks causing civilian casualties; (b) extrajudicial killings; (c) enforced disappearances; (d) arbitrary arrests; (e) acts of torture; (f) deaths in detention; and (g) rape and sexual violence. Please provide information on: (a) the investigative measures to identify individuals and

apportion responsibility for these violations; (b) the prosecutorial measures and the number, names and ranks of persons convicted, as well as the sentences imposed; and (c) the reparative measures granted to victims.

14. In the light of the large number of displaced persons in the State party, please provide information on the legislative, policy and institutional framework for the protection and assistance of internally displaced persons. Please provide updated information on: (a) the national budget devoted to internally displaced persons since 2009; and (b) the number of internally displaced persons in the State party and, specifically, in the camps that welcome such persons. Provide information on all measures aimed at: (a) protecting vulnerable groups, in particular, women and unaccompanied children that appear to be exposed to prostitution, sexual exploitation and survival sex; and (b) ensuring the safe and voluntary return or safe and voluntary reestablishment of internally displaced persons. Please respond to allegations that: (a) Civilian Joint Task Force members and members of the military are involved in harassment, extortion, exploitation and abuse, including sexual abuse of internally displaced persons; and (b) the Nigerian air force bombed a camp of internally displaced persons in January 2017 killing at least 167 of them. Please provide information on the measures to investigate, prosecute and adequately sanction those responsible.

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

15. With reference to the Anti-Torture Act of 2017 and the Administration of Criminal Justice Act, please provide information on the steps taken to ensure their effective implementation in all states and their wide dissemination, particularly among judges, lawyers and law enforcement agents. Please clarify whether: (a) the use of confessions obtained through torture or other ill-treatment as evidence is prohibited by law and whether this is respected in practice; and (b) provisions for the rehabilitation of victims are contained in the new acts. Please respond to the allegations that torture is commonly used by law enforcement agents in military and police custody, in particular by the Special Anti-Robbery Squad agents, to extort not only confessions but also money. With reference to the establishment of the Complaint Response Unit in 2015, please provide further information on the measures aimed at: (a) reinforcing police internal mechanisms in order to prevent and adequately sanction the perpetration of torture; and (b) ending impunity among law enforcement agents perpetrating torture. Please provide data on the number of reported cases of torture and ill-treatment during the reporting period, the number of investigations and prosecutions initiated, the number of convictions, the sentences imposed and the remedies granted to victims.

16. Please provide information on the measures taken to improve detention conditions in police cells, military detention facilities and other places of detention, in particular regarding overcrowding, sanitary conditions, and access to medical care, food and water. Please provide current data on the total prison population and the official prison capacity, disaggregated by facility, and information on measures to address, in particular, overcrowding. Please clarify whether: (a) an independent mechanism has been established to regularly monitor and inspect all places of detention; and (b) whether monitoring of conditions of detention by independent organizations is permitted.

### **Liberty and security of person (arts. 2, 9 and 14)**

17. With regard to the Administration of Criminal Justice Act, please clarify whether individuals can be arrested without warrant and specify the conditions and legal safeguards to limit the abuse of arbitrary arrest by law enforcement agents. Please respond to allegations that: (a) law enforcement officials, as well as Civilian Joint Task Force members, often arbitrarily arrest persons without evidence and request bribes from detainees; (b) the military have detained a large number of women without charge, for alleged links with Boko Haram members; (c) persons are commonly held for lengthy pretrial detention periods; and (d) persons are detained incommunicado. In this regard, please provide information on the whereabouts of Ibrahim El-Zakzaky and his wife, who were arrested in 2015 and who remain

in incommunicado detention. Please respond to allegations that: (a) persons are commonly detained for more than 48 hours without appearing before a judge and having an opportunity to challenge the lawfulness of their detention; (b) fundamental legal safeguards, such as the right to be informed of charges, and the right to communicate with a lawyer or to notify family members, are commonly denied; and (c) the granting of bail remains discretionary and can be arbitrarily refused, in particular for political opponents.

### **Administration of justice, independence of the judiciary and right to a fair trial (arts. 7, 9 and 14)**

18. Please describe the measures taken to strengthen the capacity of the judicial system, in particular to: (a) combat political influence and corruption and ensure that justice is free from any pressure or interference; (b) strengthen the role of the National Judicial Council and ensure the monitoring of judges and courts, at federal, state and local levels; and (c) reduce delays in the administration of justice and address the lack of resources and staff. Please describe the measures to restore citizens' trust in the justice system and provide information on the reasons for and the outcomes of the arrests of Supreme Court and High Court judges. Please provide information on the measures taken to ensure everyone's access to the courts, including through the development of an effective legal aid system. Please provide information on the role of the customary and sharia courts and clarify in particular whether: (a) non-Muslims can in practice refuse to be tried before sharia courts; (b) customary and sharia courts can be involved in criminal cases and impose punishments, such as caning, amputation and death by stoning; and (c) customary and sharia courts' judgments can be challenged before common law appellate courts in practice. Please provide information on the measures taken to ensure respect for the right to a fair trial and respond to allegations that: (a) courts commonly hear cases in the absence of legal counsels; and (b) those suspected of having committed terrorist acts are commonly denied their fundamental rights, in particular the right to legal representation and the right to due process. Please report on the existence of remedies for persons whose right to a fair trial has been violated.

### **Communication surveillance and right to privacy (art. 17)**

19. Please provide information on the legal and regulatory frameworks governing surveillance of communications and report on their compatibility with human rights standards. Please clarify whether surveillance measures and practices under the Terrorism (Prevention) Act and the Cybercrimes Act of 2015 respect the principles of legality, necessity, proportionality, judicial authorization, independent oversight and users' notification. Please respond to allegations of: (a) massive surveillance of mobile telephone communications in the State party's capital; and (b) an increased monitoring of online activities by government actors, particularly on social media. Please clarify whether the State party intends to adopt data protection legal frameworks and regulations.

### **Family life and right to privacy (arts. 6–7, 9, 17 and 25)**

20. Please provide information on the large-scale evictions and demolition of homes, in particular in Lagos State, in the Ilubirin and Otodo-Gbame communities, having allegedly affected 50,000 persons since 2013, particularly in 2016 and 2017. Please respond to allegations of excessive use of force by law enforcement agents and unidentified armed men assisting demolition teams, leading to deaths and destruction through fires during these events. Please provide information on the measures taken to: (a) investigate these allegations and grant victims adequate reparation; (b) ensure adequate safeguards and effective participation in order to avoid forced evictions; and (c) ensure the provision of alternative accommodations.

### **Freedom of religion (arts. 2, 6, 12, 18, 20–21, and 26)**

21. Please provide information on the measures to ensure non-discrimination against religious minorities and respond to allegations that: (a) Christians in the northern states experience abuse of power by Al-Hisbah (the sharia police); and (b) religious minorities, in particular Christians in the northern states, experience discrimination in access to education, employment, including state jobs, promotion and land permits to build churches. Please clarify whether, in practice, apostasy is allowed and can be practised without punishment or social pressure. Please provide information on the measures to prevent and adequately respond to hate speech, incitement to religious hatred and mob violence, particularly in the northern states against Christian minorities. Please respond to allegations that authorities commonly restrict the activities, and freedom of movement and association of members of the Islamic Movement in Nigeria, the largest Shia group in the State party. Please provide information on the pending bill in Kaduna State that would require all preachers to obtain licences to preach or risk fines or imprisonment, and respond to allegations that such a bill would in practice allow authorities to restrict churches activities.

### **Freedom of expression, assembly and association and human rights defenders (arts. 6–7, 19 and 21–22)**

22. Please provide information on the mandate of the National Broadcasting Commission and on any legal safeguards to ensure that its activities comply with article 19 of the Covenant. With regard to sections 50 (2) and 60 (chap. 7) of the Criminal Code Act of 2004, please specify whether the State party intends to review its legislation regarding libel, slander and defamation. Please provide detailed information on section 13 (9) of the Digital Rights and Freedom Bill of 2016 and its use in practice. Please respond to allegations that: (a) accusations of libel are used by State authorities in retaliation for negative reporting against journalists; and (b) section 24 of the Cybercrimes Act is used to arrest bloggers criticizing the Government. Please comment on the Government's official declaration in 2017 that the military would monitor social media for hate speech and anti-government and anti-security information, and respond to allegations that such a declaration could discourage free expression and encourage self-censorship. Please respond to allegations that bloggers, journalists, activists and human rights defenders critical of government officials or activities are arrested, detained and tortured, especially when they cover corruption scandals, human rights violations, and separatist and communal violence. With regard to human rights defenders, please clarify whether the State party intends to adopt legislation or policy measures aimed at recognizing, promoting and protecting their work.

23. With regard to the Public Order Act of 2005, please clarify the process to obtain a licence to organize peaceful assemblies or gatherings and whether the current system establishes a system of prior authorization or notification. Please provide data on the number of applications made for peaceful assemblies and the number granted within the reporting period. Please clarify the status of the Bill on Non-Governmental Organizations, introduced in June 2016, aiming at regulating and monitoring the activities of all civil society organizations in the State party, and which legal safeguards would ensure its compatibility with article 22 of the Covenant. With reference to the Trade Unions Act of 1973, please respond to allegations that the current frameworks create barriers to the establishment and activities of trade unions, in particular regarding section 3 (2), which gives the minister significant freedom to refuse the registration of a union, and section 3 (1), which requires a minimum of 50 members for registration. Please respond to allegations of threats against and harassment, arbitrary arrest and killings of trade union activists.

### **Participation in public affairs (arts. 3, 25 and 27)**

24. In view of the upcoming presidential and legislative elections in 2019, please provide information on the efforts made to ensure that: (a) problems identified during the last elections are being addressed; (b) elections are held on schedule, free from violence, transparent and fair; and (c) a large number of voter registrations is achieved and that the

registered electorate will vote effectively. Please provide information on the regulations governing primary elections for political parties to select their candidates. Please provide information on the mandate of the Independent National Electoral Commission, the appointment of its members, the conditions for referrals thereto, its staffing levels and its annual budget.

**Rights of minorities (arts. 2, 6, 20 and 26–27)**

25. Please clarify whether the State party intends to adopt a comprehensive policy and strategy to protect the rights of ethnic minorities, including in terms of their languages. Please comment on reports that ethnic minorities are discriminated against in various aspects of their lives, segregated from society, mistreated and targeted for acts of violence, while perpetrators are not prosecuted. Please elaborate on the meaning of “indigene” in section 147 (3) of the Constitution, the purpose of the distinction between “indigene” and “settler” status and their definition. Please provide information on the measures to: (a) prevent advocacy for racial hatred, particularly against Igbos; and (b) ensure representation of ethnic minorities at governmental levels and participation in decisions, particularly regarding natural resources.

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