



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

List of issues in relation to the report submitted by Nigeria under article 29 (1) of the Convention*

I. General information

1. According to the information available on the United Nations Treaty Collection website, the State party has not made the declarations to recognize the competence of the Committee to examine individual and interstate complaints under articles 31 and 32 of the Convention. In view of paragraph 3 of the State party's report,¹ please clarify the State party's intention to formalize such declarations.
2. With reference to paragraph 5 of the report, please provide additional information about the participation of civil society organizations and the National Human Rights Commission of Nigeria in the preparation of the report.
3. In relation to paragraphs 23 to 26 of the report, please explain the reasons why the Convention has not yet been incorporated into domestic law and provide information about any measure taken or planned to do so. With respect to paragraph 31 of the report, please describe how the provisions of the Convention may be invoked in court and also, with reference to paragraph 41 of the report, please provide examples of cases decided on similar provisions in national law.
4. Taking into consideration the federal structure of the State party and the information provided in paragraphs 34 and 35 of the report, please describe the measures taken to ensure that legislation and practice at the federal, state and local levels are in full compliance with the obligations set forth in the Convention, as well as the results achieved.
5. Please provide additional information about the competences of and activities carried out by the National Human Rights Commission in relation to the Convention. With respect to paragraph 127 of the report, please also provide updated statistical information about complaints of enforced disappearance, within the meaning of the definition contained in article 2 of the Convention, received by the Commission and report on actions taken by the Commission when considering such complaints and their results, including any reparations awarded to victims and the number of cases referred to the relevant authorities for criminal prosecution.

II. Definition and criminalization of enforced disappearance (arts. 1–7)

6. In relation to paragraphs 51 and 52 of the report, please provide updated statistical information, disaggregated by sex, gender identity, sexual orientation, age, nationality, ethnic origin and religious affiliation of the victim, on the number of disappeared persons in the

* Adopted by the Committee at its twenty-second session (28 March–8 April 2022).

¹ CED/C/NGA/1.



State party, specifying the date and place of disappearance; how many of those persons have been located; and the number of cases in which there may have been some form of State involvement within the meaning of the definition of enforced disappearance contained in article 2 of the Convention. With respect to the information provided by the State party in the framework of the universal periodic review process,² please report on the progress made in establishing a database on missing persons and indicate the information that will be entered into it with regard to each reported case; whether the information contained therein will be crossed-checked with the information in other databases, such as registers of persons deprived of their liberty; whether it will be accessible to any person with a legitimate interest; and the methodology that is to be used to keep the database up to date (arts. 1, 2, 3, 12, 17, 18 and 24).

7. Please indicate whether the State party envisages adopting a specific legal provision, similar to that included in section 3 of the Anti-Torture Act of 2017, to guarantee that no derogation from the right to not be subjected to enforced disappearance can be made under exceptional circumstances, including a state of emergency. In view of the affirmation in paragraph 57 of the report, please comment on allegations that measures taken in the context of the state of emergency declared in the North East region of the State party in 2013 have prejudiced the effective implementation of the Convention, including detainees being denied access to lawyers and relatives (art. 1).

8. While taking note of the affirmation by the State party in paragraph 126 of the report that “there is no record of any complaint of enforced disappearance as defined in article 2 of the Convention from the Police and other authorities”, the Committee requests the State party to comment on allegations of enforced disappearances perpetrated by security forces, particularly in the context of counter-insurgency operations. In this respect, please report on measures taken to investigate such allegations, bring perpetrators to justice and provide reparations to victims. In relation to paragraphs 44 and 45 of the report, please provide information about measures taken to address the findings of the Special Investigation Panel that officers and men of the Special Anti-Robbery Squad and other special units of the Nigeria Police Force perpetrated, *inter alia*, enforced disappearances. In particular, please provide information on criminal actions carried out against the alleged perpetrators of these enforced disappearances and their results, including the number of suspects who were convicted or acquitted, and any reparations provided to victims. Please also indicate whether the Presidential Investigation Panel set up in 2017³ or any of the mechanisms referred to in paragraph 46 of the report investigated any allegations of enforced disappearances within the meaning of article 2 of the Convention and, if so, please provide information about the outcomes of such investigations (arts. 1, 2, 12 and 24).

9. With respect to paragraph 241 of the report, please indicate whether there have been any complaints related to cases of human trafficking or related to migratory movements that may qualify as enforced disappearances as defined in article 2 of the Convention (arts. 1, 2, 12 and 24).

10. In light of the information provided in paragraph 51 of the report, in particular as it refers to abductions perpetrated by Boko Haram, please provide additional information about the efforts made, and the results thereof, to investigate the commission of the acts defined in article 2 of the Convention by persons or groups of persons acting without the authorization, support or acquiescence of the State; to bring those responsible to justice; to search for and locate the victims who remain disappeared; to encourage and facilitate the reporting of such disappearances; and to prevent those acts from occurring again in the future. Please also comment on allegations relating to the disappearance of lesbian, gay, bisexual, transgender and intersex persons and provide information about measures taken to address them (art. 3).

11. Taking into consideration the information provided in paragraphs 7 to 16, 64 to 68, 72 and 92 of the report, please indicate whether any measures have been taken, or are envisaged, to:

² A/HRC/WG.6/31/NGA/1, paras. 17–18.

³ A/HRC/WG.6/31/NGA/1, para. 69–70.

(a) Incorporate enforced disappearance as an autonomous offence in domestic law in accordance with the definition contained in article 2 of the Convention and which is applicable throughout the territory of the State party;

(b) Ensure that the offence of enforced disappearance carries appropriate penalties that take into account its extreme seriousness, while avoiding the death penalty;

(c) Establish the specific mitigating and aggravating circumstances provided for under article 7 (2) of the Convention (arts. 2, 4 and 7).

12. In relation to paragraph 76 of the report, please:

(a) Provide information on the progress made towards adopting the “bill for an act to provide for the enforcement and punishment of crimes against humanity, war crimes, genocide and related offences and to give effect to certain provisions of the Rome Statute of the International Criminal Court in Nigeria”;

(b) Indicate whether the bill in question includes the criminalization of enforced disappearance as a crime against humanity, in accordance with the standards set out in article 5 of the Convention (art. 5).

13. Please indicate whether any steps have been taken, or are envisaged, to establish in domestic law a system of criminal responsibility in relation to cases of enforced disappearance similar to that envisaged in section 7 of the Anti-Torture Act of 2017 for acts of torture (arts. 6 and 23).

III. Judicial procedure and cooperation in criminal matters (arts. 8–15)

14. In relation to paragraphs 93 and 99 of the report, please further elaborate, including by providing information on the specific relevant domestic law provisions, on the State party’s affirmations that “there is no time limitation both for criminal proceedings and sanctions in the relevant criminal statutes in Nigeria relating to the acts of enforced disappearance” and that “during the period of limitation, the victims of acts of enforced disappearance may apply to the competent judicial authorities” (art. 8).

15. With respect to paragraphs 113 to 115 of the report, please provide information about the measures taken to guarantee in practice: (a) that any person tried for an offence of enforced disappearance benefits from a fair trial; and (b) the independence and impartiality of courts. With respect to the latter, please report on measures taken to implement the Human Rights Committee’s recommendation to strengthen the independence of the judiciary.⁴ In addition, please clarify whether customary and sharia courts can adjudicate alleged cases of enforced disappearance and, if so, please indicate the punishments they could impose (arts. 11 and 12).

16. Please indicate whether military authorities could be competent under domestic law to investigate and/or prosecute alleged cases of enforced disappearance and, if so, please provide information on the applicable legislation (art. 11).

17. With respect to paragraph 132 of the report, please provide additional information on legal and/or administrative measures taken to ensure that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation. In particular, please indicate:

(a) Whether domestic law provides for the suspension from duties, from the outset and for the duration of an investigation, when the alleged offender is a State official;

(b) If there are any mechanisms in place to ensure that law enforcement or security forces do not participate in the investigation into an enforced disappearance when one or more of their officials are suspected of being involved in the commission of the offence (art. 12).

⁴ CCPR/C/NGA/CO/2, para. 39.

18. Please provide information about the current status of the bill to establish a witness protection programme mentioned in paragraph 125 of the report, as well as its content, including whether it would be applicable to all persons referred to in article 12 (1) of the Convention (art. 12).

IV. Measures to prevent enforced disappearances (arts. 16–23)

19. With reference to paragraphs 158 to 160 and 162 of the report, please indicate whether the State party envisages adopting an explicit prohibition on carrying out an expulsion, return, surrender or extradition where there are substantial grounds for believing that the person would be in danger of being subjected to enforced disappearance. In addition, please:

(a) Provide information about the mechanisms and criteria applied in the context of procedures of expulsion, return, surrender or extradition to evaluate and verify the risk that a person may be subjected to enforced disappearance;

(b) Indicate whether it is possible to appeal a decision authorizing an expulsion, return, surrender or extradition and, if so, before what authority and by means of what procedure, and whether the appeal has suspensive effect;

(c) Indicate whether the State party may accept diplomatic assurances when there are substantial grounds for believing that a person would be in danger of being subjected to enforced disappearance (art. 16).

20. While taking note of the information provided in paragraphs 168 and 187 of the report, the Committee would appreciate receiving specific information about measures taken to guarantee that, from the outset of the deprivation of liberty, all persons deprived of liberty, regardless of the offence of which they are accused, have access to a lawyer and can inform their family or any other person of their choice of their deprivation of liberty. With respect to paragraph 108 of the report, please update the Committee on any actions taken to include in domestic law the right of foreign nationals to consular assistance upon deprivation of liberty. Please also indicate whether any conditions or restrictions could be placed on the right of persons deprived of liberty, including those suspected of terrorism, to communicate with their family members, counsel, consular representatives (in the case of foreign nationals) or any other person of their choice (art. 17).

21. In relation to paragraphs 18, 169 to 171 and 182 of the report, please clarify whether the registers of arrested persons, the Central Criminal Records of the Nigerian Police Force and the Prison Register include all the elements listed in article 17 (3) of the Convention. Please also clarify whether those records contain information on all persons deprived of liberty, regardless of the nature of the place of deprivation of liberty, such as persons deprived of liberty by the military, in mental health institutions or in places of deprivation of liberty for migratory reasons. If that is not the case, please provide information about the records kept in other places of deprivation of liberty and on whether such records include all the elements listed in article 17 (3) of the Convention. Please also report on the measures taken in practice to ensure that all records of persons deprived of liberty are kept up to date and, in this respect, please comment on the allegations raised by the Committee against Torture in its concluding observations concerning the absence of the systematic and consistent use of registers of persons deprived of liberty at all stages of detention, including the details thereof (art. 17).⁵

22. Please provide information about the measures taken to guarantee in practice that any person with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their counsel, have prompt and easy access to at least the information listed in article 18 (1) of the Convention, including in relation to persons in military detention. In relation to paragraphs 192, 193, 202 and 203 of the report, please clarify whether or not access by any person with a legitimate interest to the information listed in article 18 (1) of the Convention may be restricted and, if so, for how long. In addition, please indicate whether

⁵ CAT/C/NGA/COAR/1, para. 11.

the Penal Code contains a provision similar to that contained in section 368 of the Criminal Code (arts. 18, 20 and 22).

23. While taking note of the information provided in paragraphs 221 to 230 of the report, the Committee would appreciate receiving clarification as to whether the State party provides, or envisages providing, specific and regular training on the Convention, in accordance with the terms set forth in article 23 thereof, to civil or military law enforcement personnel, medical personnel, public officials, including officials from the National Agency for the Prohibition of Trafficking in Persons, and other persons who may be involved in the custody or treatment of any person deprived of liberty, including judges, prosecutors and other officials involved in the administration of justice. Taking into account the information provided in paragraph 44 of the report, please also indicate whether the training activities on human rights standards carried out by the National Human Rights Commission for, *inter alia*, military, police and other law enforcement agency personnel, include training on the Convention (art. 23).

V. Measures to protect and guarantee the rights of victims of enforced disappearance (art. 24)

24. In relation to paragraphs 231, 234 and 236 of the report, please clarify whether the Violence against Persons (Prohibition) Act of 2015 is applicable throughout the territory of the State party. If that is not the case, please specify whether there are provisions applicable throughout the territory: (a) that contain a definition of victim that complies with article 24 (1) of the Convention; (b) that provide for a system of integral reparation containing all the forms of reparation enumerated in article 24 (5) of the Convention; and (c) that establish that the State is responsible for providing integral reparation to victims of enforced disappearance. Please clarify whether it is necessary for victims to initiate criminal proceedings in order to obtain reparation, and provide statistical information about reparations provided to victims of enforced disappearance since the entry into force of the Convention, disaggregated by type of reparation (art. 24).

25. Please provide information about measures taken to guarantee the right to the truth for victims of enforced disappearance, including whether domestic law makes explicit provision for the right of victims of enforced disappearance to the truth, in conformity with article 24 (2) of the Convention (art. 24).

26. In view of the information available concerning the presence of mass graves in the territory of the State party, please report on:

(a) Measures taken to ensure that searches for mass graves are carried out and that all the graves are located;

(b) The number of mass graves located;

(c) Efforts to identify, respect and return the remains of disappeared persons, including the number of persons who were located and identified or have yet to be identified;

(d) Progress made in establishing the genetic databank referred to in paragraphs 201 and 232 of the report and, in the absence of such a database and the lack of regulation of identification through genetic analysis in criminal procedures as mentioned in paragraph 196 of the report, please explain how remains are identified;

(e) Investigations carried out and their results, including whether those responsible were identified and punished in accordance with the gravity of their acts;

(f) Efforts made to keep relatives abreast of the progress and results of investigations and the fate of the disappeared persons (art. 24).

27. Please provide information about: the measures taken, and their effectiveness, to guarantee that the search for an alleged victim of enforced disappearance is launched *ex officio* and as soon as the competent authorities are notified of the disappearance; the protocols and procedures for searching for, locating and releasing disappeared persons and

the applicable time frames; and measures in place to ensure that the search continues until the fate of the disappeared person has been clarified (art. 24).

28. Please provide information about applicable law with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in matters such as social welfare, financial matters, family law and property rights. In this regard, please indicate the measures taken to ensure that a gender perspective and the needs of women and children close to a disappeared person are taken into account (art. 24).

VI. Measures to protect children from enforced disappearance (art. 25)

29. While taking note of the information provided in paragraphs 250 and 251 of the report, the Committee would appreciate receiving clarification as to whether domestic law specifically criminalizes the conduct described in article 25 (1) of the Convention and, if not, whether the State party envisages adopting such specific legislation. In addition, please indicate whether any complaints concerning the wrongful removal of children in the terms described in article 25 (1) (a) of the Convention have been submitted since the entry into force of the Convention for the State party. Please describe the measures that have been taken to locate children who have been victims of wrongful removal or enforced disappearance, including measures of cooperation with other States parties and to prosecute those responsible, as well as the results of those efforts (art. 25).

30. Please describe the system of adoption or other form of placement of children in force in the State party and indicate whether domestic law establishes any legal procedures to review and, where appropriate, annul any adoption, placement or guardianship that originated in an enforced disappearance. If no such procedures have been established yet, please indicate whether any action has been taken to bring national legislation into conformity with article 25 (4) of the Convention. Please also provide information about the measures taken to improve birth registration, and the results thereof, in order to prevent any risk of the wrongful removal of children (art. 25).
