

STATE OF HUMAN RIGHTS REPORT

2011 - 2012



NATIONAL HUMAN RIGHTS COMMISSION



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Forward

The State of Human Rights in Nigeria 2011-12 Report, produced by the National Human Rights Commission (Commission), is the 4th in the series of this comprehensive publication since its maiden issue in 2008. Every year that the report is published certain aspects are improved on from prior years. In the 2011-12 report the Commission streamlined the format of each chapter to highlight actual complaints received by the Commission, and the actions the Commission took to resolve those complaints. Ultimately, it is hoped that this new format will aid the public's understanding of the Commission's work, and the breadth of the issues that fall within the Commission's purview.

The 2011/12 edition additionally contains expanded coverage of economic, social and cultural rights (ESCR) violations, in an attempt to put greater focus on the fundamental rights violations often suffered by poor individuals and communities in Nigeria – which comprises majority of the population, where according to the United Nations, 63% of Nigerians live in extreme poverty. All too often poor communities survive only by adapting to compromised leadership and pervasive injustice. Forced eviction, displacement, land grab, environmental degradation, police extortion and harassment, and other daily rights violations perpetuate poverty and marginalization and are brought to the Commission for redress.

After nearly 13 years of democracy, Nigeria continues to struggle with severe corruption, rampant impunity, and poor governance. In this context, human rights violations committed by State actors are pervasive. Accordingly, the work of the Commission is immense. This publication represents but a small effort within the broader context of the Commission's efforts to bring greater light to human rights violations in Nigeria, and ultimately, provide remedy to individuals and

communities whose rights have been violated.

Professor Jadesola Akande's message in her forward to the 2007 edition of this report, remains no less true today with respect to the 2011-12 edition: 'the revelations in this report should hopefully, discourage officials and agencies involved in these violations, from committing further violations and create an enabling environment for accessing redress.' Despite the regularity and enormity of the scale of human rights violations committed today, the human rights community in Nigeria remains ever tireless in working for a better future in which accountability for perpetrators and redress for victims is universal.

With this, I hope that one day the Nigerian government may be looked upon as exemplary for its protection of human rights. However, I know well that the road ahead is long and that so much needs to be done.

Thank you,

Professor Bem Angwe
Executive Secretary
National Human Rights Commission

Acknowledgments

The National Human Rights Commission (Commission) acknowledges the many contributions its staff and civil society resource persons have made in drafting, reviewing, and editing this report. Prof. Bem Ango, Executive Secretary, Tony Ojukwu, Director, Monitoring Department, and Okwa Morphy, Assistant Director, Monitoring Department, led the drafting and compilation of the report for the Commission. Andrew Maki and Anna Maitland Co-Directors of Justice and Empowerment Initiative (JEI) edited the initial draft of this report.

Additionally a collation and review committee comprised of resource persons with expertise on a broad array of human rights issues was convened in Masaka, Nasarawa State, in March 2014, to review and edit the draft of the report. This committee included Titus Mann, President at Civil Liberties Organization; Olanrewaju Suraju, Chair, Human & environmental Agency; Andrew Maki and Megan Chapman, Co-Directors at JEI and Moses Adgaasu. The following members of the National Human Rights Commission additionally provided support: Abdul Raman Yakubu, Director of Protection and Investigation; Ifeoluwa Nwakama, Head Media Relations and Corporate Affairs; Harry Ojo, Deputy Director, Office of the Executive Secretary and Elere Seun.

Finally, the Commission recognizes generally the efforts of the Nigerian human rights community that continues to struggle—at times at personal risk, and against massive countervailing entrenched interests—in favor of impunity of State actors for brazen human rights violations—for accountability and justice for all. It is only through collective and sustained efforts that Nigeria may become a State where human rights are regularly respected, protected, and promoted.

Executive Summary

The State of Human Rights in Nigeria 2011-12 Report is a compilation of complaints received by the Commission, CSO partners and incidents of human rights violations culled from news media and other sources organized according to the human rights that were violated or the thematic issue at stake. The Report additionally highlights reports of elections monitored by the Commission within the 2011-2012 period, developments in the promotion and protection of specific human rights, as well as makes recommendations to address the challenges identified. The intent is for this document to serve as reference material for anyone interested in understanding the situation of human rights protection in Nigeria during the period under review, from January 2011 through December 2012.

The Report is divided into four parts. The first focuses on violations of civil and political rights (CPR), such as the rights to life, dignity, liberty, and freedom of expression and the press. The second part highlights violations of economic, social and cultural rights (ESCR), such as the right to health, adequate housing, food, and work. The third part deals with reports of elections monitored during the period covered. The last part of this report canvasses thematic issues that cut across specific areas of rights, but are unified by geography, phenomenon, or otherwise, and were deemed sufficiently important by the Commission to be addressed in chapters of their own. Such chapters span issues of access to justice, human trafficking, and sexual and gender-based violence.

Each chapter within the first and second part of this report is focused on individual right or related group of rights, beginning with an introduction of the human right(s) to be assessed, and then explains the legal framework for protection of the right in international and domestic law,

as well as human rights norms and standards. This legal framework forms the benchmark against which compliance of the Nigerian government can be measured. Subsequently, each chapter sets out Nigeria's progress towards realization of the right(s) at issue in general terms, highlighting any significant legislative or policy changes, as well as any relevant major government initiatives undertaken during the reporting period. Next each chapter lays out the basic facts of the complaints submitted to the Commission, and cases culled from the news media relevant to the specific right(s) being addressed. Lastly, each chapter concludes with commitments by the Commission to undertake certain actions, as well as recommendations to the relevant stakeholders - Federal Government and state governments, Ministries, Departments and Agencies (MDAs), on steps to take to ensure greater protection and promotion of the right(s) being considered.

The third part is essentially made up of chapters on elections monitored during the period.

Each chapter within the fourth part of this report takes a slightly different form, specifically tailored to each thematic issue. Where possible, each chapter also concludes with commitments by the Commission to undertake certain actions, as well as recommendations on how to address the issues under consideration.

Ultimately, like prior editions of this report, the State of Human Rights in Nigeria 2011-12 Report is aimed at holding the Nigerian government, its agencies, institutions, and individual representatives accountable for human rights violations committed during the period under review. We also hoped that this report will highlight areas of human rights violations that need of greater attention and scrutiny generally, and can point to specific actions and interventions to be taken.

Table of Instruments

The below table identifies the principles, national, international and regional human rights instruments that are relevant to Nigeria, as well as their status where applicable.

National Laws:

The constitution of the Federal Republic of Nigeria, 1999 (as amended) (CFRN)

The National Human Rights Commission Amendment Act, 2010

International instruments:

Universal Declaration of Human Rights (UDHR)

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Status: accession in 1993, no domestication

International Covenant on Civil and Political Rights (ICCPR)

Status: accession in 1993, no domestication

Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Status: accession 1967, no domestication

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Status: ratification 1985, no domestication

Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT)

Status: ratification 2001, no domestication

Convention on the Rights of the Child (CRC)

Status: ratification 1991, domesticated in 2003

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Status: accession 2009, no domestication

Convention on the Rights of Persons with Disabilities (CRPD)

Status: ratification 2010, no domestication

Convention for the Protection of All Persons from Enforced Disappearance

Status: accession 2009, no domestication

United Nations Convention against Corruption (UNCAC)

United Nations Convention Against Transnational Organized Crime (UNTOC)

Regional instruments:

African Charter on Human and Peoples' Rights (African Charter)

Status: ratified 1983, domesticated

African Charter on the Rights and Welfare of the Child

Status: ratified 2001, domesticated in the CRA

**Protocol to the African Charter on Human and Peoples' Rights
on the Rights of Women in Africa**

Status: ratified 2004, not domesticated

**African Union Convention on Preventing and Combating
Corruption (AUCPCC)**

Status: ratified in 2006, not domesticated

The African Charter on the Rights and Welfare of the Child is a blueprint for the attainment of children's rights in Africa and so it can be argued that it is domesticated in the Child's Rights Act, 2003, (CRA) as most of the provisions contained therein has been adapted into the CRA with modifications to suit the circumstance of the Country.

Part 1: Civil and Political Rights

Civil and political rights (CPR) form an integral part of the fundamental rights afforded to all persons. Numerous civil and political rights are afforded protections under the 1999 Constitution, and additionally under international human rights instruments to which Nigeria is a party.

Chapter 4 of the 1999 Constitution protects the following civil and political rights:

- Right to life (section 33)
- Right to dignity of human persons (section 34)
- Right to personal liberty (section 35)
- Right to fair hearing (section 36)
- Right to private and family life (section 37)
- Right to freedom of thought, conscience and religion (section 38)
- Right to freedom of expression and the press (section 39)
- Right to peaceful assembly and association (section 40)
- Right to freedom of movement (section 41)
- Right to freedom from discrimination (section 42)
- Right to acquire and own immovable property (section 43)

These rights are generally non-derogable, however in various generally accepted human rights norms and standards, Section 44 of the 1999 Constitution provides allowances for derogation of these rights during narrowly prescribed circumstances. Any individual whose civil and political rights are violated can apply to the High Court for remedy (see Section 46 of the 1999 Constitution).

At the international level, civil and political rights are protected by numerous instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

The 2011-12 report does not separately address each of the above-identified civil and political rights. Rather, based on prevalence and severity, this document includes discussion of:

- Right to Life (Extra-Judicial Killings and Summary Executions)
- Right to Dignity of the Human Person (Freedom from Torture, Cruel, Inhuman and Degrading Treatment or Punishment)
- Right to Freedom of Expression and the Press
- Freedom of Thought, Conscience and Religion

Additionally, the chapters on right to life and right to dignity do not address all aspects of both rights, but rather a subset of violations of those rights particularly prevalent in Nigeria, namely extra-judicial killings and summary executions (in the chapter on the right to life) and freedom from torture and CIDT (in the chapter on right to dignity of the human person).

Chapter One

Right to Life (Extra-Judicial Killings and Summary Executions)

Introduction

The right to life is perhaps the most elemental of all human rights. Violations of the right to life must, under all circumstances, be thoroughly investigated and prosecuted, such that there is accountability for the perpetrator and remedy for the victims and their families. Unfortunately, during the period under review, particularly in the lead up to and the immediate aftermath of the April 2011 national elections, countless individuals were subjected to extra-judicial killings by State and non-state actors.

Legal framework in Nigeria

The right to life is universal, and has few exceptions. This fundamental right is protected under Chapter 4 of the 1999 Constitution in Section 33, which states:

- (1) 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.

The right to life is protected in numerous international human rights treaties, including several to which Nigeria is a state party. For example, Article 6(1) of the ICCPR states that "[e]very human being has the inherent right to life," and furthermore that "[t]his right shall be protected by law. No one shall be arbitrarily deprived of his life."

An extrajudicial execution is the unlawful and deliberate killing of an individual carried out by order of the government, with its complicity or acquiescence. Extrajudicial killings constitute clear violations of the right to life as guaranteed by the Constitution, the ICCPR, and the African Charter.

Complaints received by the Commission

In the period under review (2011-12), the Commission received several complaints of violations of the right to life in Nigeria. These include:

1. On 3rd October 2012, the Commission received a complaint from Mrs. Eze stating that on 15 September 2012, her husband, Mr. Christian Eze, died while in police custody at the State Command Headquarters Jimeta-Yola, Adamawa State. The complainant alleged that on 13 September 2012, at about 10:00am, a policeman named Agbaleke had gone to the late Mr. Eze's office where he sold cars. Not finding Mr. Eze at the office, Mr. Agbaleke asked for his phone number from the manager, claiming that he wanted to buy a jeep from the deceased. Mr. Agbaleke later called Mr. Eze, and they arranged to meet. However, upon meeting, Mr. Agbaleke asked the deceased to accompany him to the Police Station to assist him to sign the bail bond for Mr. Agbaleke's brother, who had been arrested. On getting to the Police Station, Mr. Eze was

detained. When the news of his detention got to his family, his wife made an attempt to secure his bail, but was asked to bring someone as surety, which she promptly did. Her husband was still refused bail. On 15 September 2012, Mrs. Eze learnt that her husband died while in police custody and that his corpse was deposited at the Adamawa State specialist Hospital Mortuary, Jimeta-Yola.

Upon receipt of the complaint, the Commission wrote to the IGP to investigate the matter and avail it with the outcome. As at the time of this report, the office of the IGP was yet to respond to the queries raised by the Commission.

2. On 28th September, 2012, the Commission received a complaint from one Cletus Udo-Essien, alleging that on 17 August 2012, Mr. Obun-Udu Essien, a casual worker, was called by Barrister Bassey Eme Okon, a Member of the Akwa Ibom State House of Assembly, to execute a job for him. While at Barr. Okon's house, the victim was alleged to have been beaten up by Barr. Okon's political thugs and some policemen, and then shot. The victim returned home with the gunshot wound and bruises. While the family was making arrangement to take him to the hospital, the police arrested him, saying they were detailed to arrest him by the State Commissioner of Police. After the arrest, the family searched all the police stations in the area but did not find Mr. Essien and the police could not give account of his whereabouts. A few days later, his corpse was found in a forest at Bikan Local Government Area, Akwa Ibom State.

The Commission referred this matter to the police for investigation and possible prosecution. As of the time of this

report, the Commission was yet to get a response from the police on its investigation.

3. On 9 August 2010, 27 year-old Mr. Thompson was shot and killed at about 3pm by policemen from SARS Annex, Eket, led by one Sgt. Nduonofit Effiong. It was reported that Mr. Thompson, who was not armed, was chased by the Police and he ran to No. 24, Nkubia Street, Eket to seek refuge. There, police summarily executed the deceased, shooting him in front of his family and claiming that he was a robbery suspect.

The Commission, on receipt of the complaint on 19 August 2010, wrote to the IGP who then forwarded the complaint to the Commissioner of Police in Akwa Ibom State, who is yet to respond. The South-South Zonal office of the Commission is following up on the case.

4. On 5 October 2012, four students of the University of Port-Harcourt, Rivers State were arrested by members of the Aluu-Omuokiri community on suspicion of being thieves. The students were paraded naked, beaten, taken around the village and eventually burnt to death. The police went into the community and carried out mass arrests, including the village head.

The Commission, *suo motu* carried out an investigation in the community and noted that most of the indigenes of the community had fled, following the mass arrest. On 17 October 2012, 13 of the suspects were charged before a Magistrate Court on a five (5) counts charge of murder, lynching and burning of the four students, amongst others. Upon application for bail, the Court declined jurisdiction stating that it was a

capital offence and ordered that the alleged offenders should be remanded to Prison awaiting the advice of the Director of Public Prosecutions (DPP) and possible transfer of the case to the High Court. On 20 December 2012, three (3) other suspects were arraigned in the same magistrate court. Jurisdiction was declined again and the case referred to the DPP for legal advice. As at the time of this report, the Commission is still closely monitoring proceedings at the Court.

5. On 13 October 2012, the Commission received a complaint from Mrs. Ruth Anjorin, stating that four officers of the Nigeria Police Force, Abuja Command – Sgt. Mohammed Yusuf, PC Obidah Audi, Sgt. Mohammed Ibrahim Liman and Richard Dauda - beat up Mr. Elisha Anjorin, for daring to resolve a dispute between them and one Mr. Bakinde Joseph, an Inspector with the Nigerian Prison Service. According to the complaint, the police officers beat up Mr. Anjorin and took him in their vehicle to an unknown destination. He was later brought back and he was very weak. The policemen, seeing the level of weakness, rushed him to the hospital where he eventually died as a result of the beating.
6. On 17 November 2012, the Commission received a complaint from Obiakor & Co, a law firm, alleging that Special Anti-Robbery Squad (SARS) officers stationed in Awkuzu in Anambra State, in connivance with Mr. Michael Nwakalor and Mrs. Victoria Mbanefo, killed Mr. Nonso Ayalogu on 16 July 2009, under the pretext that the deceased had attempted to kidnap the said Mrs. Mbanefo. It was also alleged that the violators were invited to the Force Headquarters (Homicide Department) Abuja at the instructions of the Inspector General of Police (IGP), but that they refused to honour the invitation.

On receipt of this complaint, the Commission wrote to the IGP, who forwarded the complaint to the Commissioner of Police in Anambra State. The Commission is yet to receive further response from the IGP or Commissioner of Police in Anambra State as of the time of this report.

Other cases reported / documented

In the period under review (2011-12), there were some reports in the media on incidents of violations of the right to life in Nigeria. These include:

1. On 4 February 2012, the *Weekly Trust Newspaper* reported that on 2 February 2012, Corporal Godiya of the Nigerian Police Force allegedly killed Buhari Suleiman at Lame Burra Game Reserve, in Toro Local Government Area of Bauchi State. According to the report, the victim was killed while he was trying to report illegal felling of trees at Toro Forestry by a group of people led by Alhaji Mato.
2. On 11 March 2012, the *Punch Newspaper* reported that a police station in Warri was attacked over the release of a suspected murderer of Chief Ogbu Onokpote. According to the report, the family of the deceased accused the police of conspiracy and complacency in the release of some persons suspected to be involved in the killing of the politician without proper investigation. The deceased, who was the candidate for the Citizen Popular Party for the Delta State governorship election, is alleged to have been killed by the police, who claimed he was a gunrunner and was shot while resisting arrest. The police maintained this position.

3. On 25 April 2012, the *Vanguard* newspaper reported that Sunny Blacky, the Youth Chairman of Ugbor Community in Benin, was shot dead by an unidentified Police Inspector.
4. On 7 April 2012, the *Daily Trust* newspaper reported that on 5 April 2012, 20 year-old Aisha Lawal and an elderly woman were shot dead by men in the Joint Military Task Force at a checkpoint along Dorayi Sabon Titi, on the outskirts of Kano State. According to the report, Aisha, who was in company of her brother, was shot at when the vehicle they were travelling in was flagged down by the Military Task Force at a check-point. Before the car could come to a stop, the alleged violators shot at it and killed Aisha and another elderly woman.
5. On 10 April 2012, the *Tribune Newspaper* reported the shooting of a couple by a policeman attached to Counter Terrorism Unit (CTU) of the Nigeria Police Force. The victims both sustained injuries. The incident took place at Peter Seriki Road at Tunga Community in Minna, Niger State. According to the report, the victims were driving along the road, when they were stopped by policemen on stop and search duty. After being searched, they tried to move on but were shot at by a Police Constable. The Police Constable was immediately arrested, disarmed by his colleagues and taken to the station. Confirming the incident, the Niger State Police Command Public Relations Officer, Mr. Richard Ogwuche, stated that the alleged violator has been tried and dismissed from the NPF.
6. On 11 April 2012, the *People's Daily* newspaper reported that four persons were killed and six, including Mr. Sunday Daniel, were injured by a mobile policeman over a GSM memory card at Tudun Wada, Jos, Plateau State. According to the report,

there was an argument over the ownership of the memory card and the mobile policeman was called in to intervene and settle the dispute. While trying to settle the dispute, the mobile policeman shot and killed the victims

7. On 25 April 2012, *Leadership Newspaper* reported that a 32-year-old commercial motorcycle operator, Hamisu Saidu Abubakar, was killed by policemen on duty at Mandela road, Goodluck Jonathan Arena, Minna, Niger State on 23 April 2012. He was alleged to have violated the law banning the movement of motorcycles after 7pm.
8. On 28 April 2012, the *Tribune Newspaper*, reported that Damilola Ayoade, a commercial motorcyclist (Okada rider) was killed by a mobile policeman in a patrol vehicle at Ayeso area of Osun State. According to eyewitnesses, the victim was shot while going to his relatives to get money to prepare for his graduation from apprenticeship.
9. On 7 May 2012, the *Champion Newspaper* reported that on 31 January 2011, Mrs. Doris Okere, a banker, was killed at Mpape, FCT, by a police corporal identified as Olotu Owoicho. Mrs. Okere was reported to have been killed while the taxi she was in tried to reverse close to a bank in Mpape. After the killing, the police officer took refuge in the bank and it was attacked by angry mob. The attack caused the police authorities to send more armed mobile policemen to the scene. As at the time of the release of the article, the families of the victim were still waiting for justice.

10. On 18 June 2012, the *Daily Sun Newspaper*, reported that on about 11 June, 2012, around 8.30pm, officers of the Department of State Services (DSS), Kano State Command, shot and killed a 33 year old businessman, Mr. Zahradeen Muhammed Musa and injured his 18 year old brother, Usman, at Giginyu Quarters, Kano, while they were trying to park in front of the house they were visiting. The incident occurred near the DSS office at Sardauna Crescent, Kano. According to the report, after the shooting, Hajiya Bahijja, the mother of the two men, who was with them, tried to get out of the car to attend to her injured son and get him to the hospital for medical attention, but the alleged violators refused. Rather, the alleged violators took the victim to the Military hospital, where no access to him was allowed. Confirming the incident, the Director of DSS, Kano State Command, Mr. Bassey Eteng, stated that the victims were shot at when they refused to stop for a search at the DSS checkpoint.
11. On 18 June 2012, the *Daily Sun Newspaper*, reported that Corporal Emmanuel Okujo (Force No. 234533), aged 23, of the Nigeria Police Force attached to the Criminal Investigation Bureau, Lagos State, absconded after killing his girlfriend, Patience, at Ifako Area of Gbagada, Lagos. The State Police Public Relations Officer, Joseph Jaiyeoba, said the policeman has been officially declared a deserter by the Nigerian Police Force, and has since been declared wanted.

Additionally, note that several other human rights organizations have reported numerous instances of violations of the right to life in Nigeria during the period under review.

Recommendations

Overall, the Commission is gravely concerned with the frequency of violations of the right to life in Nigeria. As a consequence, the Commission makes the following recommendations to relevant parties:

Federal Government:

- All laws that allow for more grounds for use of lethal force than those permitted by international human rights law and standards should be amended, in particular to ensure that they are in line with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. This includes Section 33(2)(b) of the 1999 Constitution, and Police Force Order 237, among others.

Nigerian Police Force, Army, and other State Security Forces:

- The practice of shooting suspects on sight should be stopped. Under no circumstance can such practice be justified under the law.
- Existing mechanisms for addressing the recurring cases of extra judicial killings and summary executions should be re-evaluated, for they have largely failed to arrest the frequency of extrajudicial killings in Nigeria.
- All officers found to have been involved in extrajudicial killings should be promptly prosecuted with the full weight

of the law. Mere expulsion from the security forces or professional reprimand is wholly inadequate and does not, under any circumstance, constitute compliance of the Nigerian government with its obligations to respect, protect, and fulfil the rights of all individuals to be free from violation of their right to life.

- Human rights desks located at NPF stations should be fundamentally overhauled to ensure that NPF officers staffing such desks have demonstrated respect for, and understanding of, human rights standards, and protection. This includes expertise in the basic skills of investigation of extrajudicial killings.
- The NPF and other security forces should review their rules of engagement, particularly around the use of force in dealing with detainees and public protests.

Chapter Two

Right to Dignity of the Human Person (Freedom from Torture, Cruel, Inhuman and Degrading Treatment or Punishment)

Introduction

The right to dignity of the human person broadly protects against torture, slavery, and forced labour. This chapter focuses on the freedom from torture, cruel, inhuman and degrading treatment or punishment. The prohibition of torture is absolute. Although the Nigerian government has taken steps towards eradicating the use of torture, including the establishment of a National Committee Against Torture, cases nonetheless continue to arise.

Legal framework in Nigeria

The right to dignity of the human person protects all individuals against torture, cruel, inhuman and degrading treatment or punishment (CIDT). This fundamental right is protected in Nigeria under Chapter 4, Section 34 of the 1999 Constitution, which states:

- (1) Every individual is entitled to respect for the dignity of his person, and accordingly -

- (a) no person shall be subject to torture or to inhuman or degrading treatment;
- (b) no person shall be held in slavery or servitude; and
- (c) no person shall be required to perform forced or compulsory labour.

The right to freedom from torture and CIDT is also protected by numerous international human rights instruments, including many that Nigeria has ratified. However, the prohibition of torture and CIDT has a special status in the international protection of human rights, where it forms part of customary international law and is therefore binding on all States. The prohibition of torture is absolute and can never be justified under any circumstance. This prohibition is non-derogable, which means that a State is not permitted to temporarily limit the prohibition on torture under any circumstance whatsoever, whether in a state of war, internal political instability or any other public emergency. Furthermore, the prohibition of torture is also recognized as an absolute norm of international law. In other words, it overrides any inconsistent provision in any other law.

Considering the particular importance placed on the prohibition of torture, the traditional obligations of States to respect, protect, and fulfil human rights is complemented by a further obligation to prevent torture and other forms of ill-treatment.

Torture is defined in Article 1 of the UN Convention Against Torture, Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT) as:

"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information

or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity"

States are required to take positive measures to prevent torture, such as the establishment of a National Preventive Mechanism Against Torture. Pursuant to this, the Federal Government of Nigeria established the National Committee Against Torture, located in the Federal Ministry of Justice, in September 2009. The Committee is mandated to visit places of detention in Nigeria and investigate any complaints of torture therein. In addition, it is also mandated to carry out educational or enlightenment programmes for law enforcement agencies and the public at large.

Article 7 of the International Covenant on Civil and Political Rights (ICCPR) provides that no person "shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." In addition, article 10 states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." The Covenant provides that anyone claiming that their rights have been violated shall have an effective legal remedy. Further, no derogation is allowed regarding the right not to be subjected to torture and other forms of ill-treatment.

A number of other international human rights treaties contain similar prohibitions of torture and other ill-treatment.

The Convention on the Rights of the Child (CRC) contains a specific provision in relation to torture and ill treatment of children (article 37).

The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (article 10) and the Convention on the Rights of Persons with Disabilities (article 15) contain similar provisions against torture. Although there is no specific provision on torture included in the Convention on the Elimination of All Forms of Discrimination against Women, the relevant United Nations treaty body has adopted a general recommendation on violence against women that deals with torture (General Recommendation 19, 1992).

The right to seek asylum in another country is a fundamental protection for anyone who faces the danger of persecution by torture. There is a total prohibition on any Government returning a person to a country where they would be in danger of serious human rights violations of torture in particular. This is the principle of non-refoulement, which is specifically mentioned in Article 3 of the UNCAT.

Although they are not strictly human rights treaties, the Geneva Conventions, which apply in times of armed conflict, also contain a clear and unambiguous prohibition of torture in their Common Article 3. The Rome Statute of the International Criminal Court also explicitly lists torture as a crime against humanity that falls under the jurisdiction of the Court. Article 7(2)(e) defines torture as "the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions." This definition is broader than that in the Convention Against Torture, as it includes acts committed by both State and non-State actors and does not require "purpose" as an objective of the torture.

Equally, the African Charter, adopted by the Organization of African Unity in 1981, states: "Every individual shall have the right to the respect of the

dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."

The primary responsibility to prevent torture resides with the State, which has a clear duty to take all measures to prevent torture and other forms of ill-treatment. The Commission, which is established for the promotion and protection of human rights in Nigeria, therefore plays a key role on ensuring that the State upholds this obligation.

Nigeria is under obligation, deriving from its membership in the international community and its ratification of international instruments to:

- Take effective legislative, administrative, judicial or other measures to prevent acts of torture within its jurisdiction;
- Ensure that attempts to commit torture, complicity or participation in torture, and all acts of torture are prohibited under its laws;
- Ensure that law enforcement officers and any other personnel involved in keeping custody of persons are enlightened on the dangers or otherwise of torture;
- Ensure that victims of torture obtain redress and have an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible;
- In the event of the death of the victim as a result of an act of torture, his/her dependants shall be entitled to compensation.

In terms of legislative measures, apart from relevant provisions of the Penal Code and the Criminal Code, Section 34(1)(a) of the 1999 Constitution provides that "[e]very individual is entitled to respect for the

dignity of his person, and accordingly no person shall be subjected to torture or to inhuman or degrading treatment."

Though the Federal Government of Nigeria has established a National Committee Against Torture following the ratification of the Optional Protocol to the UN Convention Against Torture on 27 July 2009, it has not recognized the competence of the Committee Against Torture to receive and consider communications in which a State Party can claim that another State Party is not fulfilling its obligations under the Convention. Nigeria has also not recognized the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of violation by a State Party. Thus, in respect of both inter-State and non-State communications, the Committee has no competence over Nigeria.

While there has been appreciable decline in cases of torture under the current civilian regime, a lot remains to be done—especially in the realm of law enforcement and in the specific context of the treatment of prisoners and other persons in detention, to secure a respectable degree of compliance with the provisions of the Convention. As earlier stated, Nigeria has ratified the UNCAT and its Optional Protocol and considerable progress has been made to criminalize torture through the Anti-Torture Bill currently before the National Assembly.

Complaints received by the Commission

In the period under review (2011-12), the Commission received several complaints of violations of the right to dignity in Nigeria. These include

1. On 15 March 2011 the Commission received a complaint from one Yusuf Suleiman on the alleged torture, cruel, inhuman and degrading treatment meted out to him by Dahiru Adamu and Godia Anthony, both Constables attached to Police Mo

Force (PMF) 50, Kubwa. He alleged that on 6 February 2011 he was beaten with an iron rod over a misunderstanding, which ensued as a result of a hundred naira price difference of a SIM card which he sold to Dahiru Adamu. The complainant alleged that while he was trying to protect himself from the impact of the iron rod, his left hand was severely damaged. He further alleged that after the act, the officers ran away when they saw the reaction of bystanders, leaving him in a pool of his own blood.

The Commission investigated this complaint and recommended that appropriate disciplinary action be taken against the officers. As a result of the intervention, the alleged violators were put through an orderly room trial and dismissed from the Nigeria Police Force.

2. On 2 July 2012, the Commission received a complaint from Mrs. Ismaila Usman, stating that on 15 February 2012, her husband, Mr. Ojo Ismaila Usman, was arrested by men in the Nigeria Police Force on his way to Abuja from Kogi State. Mrs. Usman alleged that she called her husband and a NPF officer informed her that her husband was under arrest. On reaching the Police Station in Kogi State, she found her husband in a very demoralized state with various injuries and bruises as a result of the torture he had been subjected to by the police. Mrs. Usman further stated that Mr. Usman was accused of armed robbery and possession of firearms and charged to court. During the hearing, the police failed to produce the victim before the Court, but instead declared him dead.

The Commission wrote to the Inspector General of Police (IGP) requesting for his comments on the allegation. There was no response as at the time of this report.

Other cases reported / documented

In the period under review (2011-12), there were some reports in the media on incidents of violations of the right to dignity in Nigeria. These include:

1. On 16 April 2012, the *Nation Newspaper* reported that on 9 April 2012, at about 3:30pm, a soldier brutalized a nursing mother, Mrs. Bolanle Braimoh, in Lagos and attempted to push her from the Obafemi Awolowo Bridge. Motorists and passersby pleaded with the soldier, but he threatened to deal with anyone who dared to come any closer to rescue the victim. He also promised to kill the victim for daring to challenge him. Angry bystanders intervened and the soldier was later taken away by his friends, in a green Toyota military vehicle with registration number Army -NA057b03.

The victim stated that she and one Joseph Timothy, a second year student of Obafemi Awolowo University (OAU), were seated at the front of the bus when the soldier entered and ordered them to relocate to the back seat so he could occupy the front seat. Although Mr. Joseph was not happy about the request, Mrs. Braimoh prevailed upon him to give up the front seat, which he did, but while doing this he began to grumble at the injustice. On hearing this, the soldier started shouting and threatening them. Getting to Obafemi Awolowo, the driver told all of them to alight, because of the traffic congestion. At this point, the soldier started beating the victim. According to the report, Mrs. Braimoh laid a complaint at the Military Barracks, Ikoyi and the Officer-in-Charge promised to do something about it.

2. On 26 June 2012, it was reported that Mr Tunde Olowofoyekan was tortured to death by 2nd Lieutenant A.A. Salami of the Nigerian Army. According to the report, on 23 June 2012, Lt. Salami intercepted a transport boat with 7 men on board carrying empty drums, and the occupants of the boat explained that the drums belonged to a lady who buys locally made gin from Southern Ijaw Local Government Area of Bayelsa State. Lt. Salami reportedly accused the crew of illegal bunkering and demanded one million naira (N1,000,000). When they failed to meet his demand, he allegedly asked the soldiers working with him to conduct a search. While carrying out the search, the soldiers took away the sum of six hundred and eighty thousand naira (N680,000) which they found in the boat. Thereafter, Lt. Salami ordered that they should be tortured. While being tortured, Tunde Olowofoyekun tried to escape but was apprehended and brought back to the others. In the course of the torture, Mr. Olowofoyekun was rendered blind. He also lost an additional two hundred and fifty thousand naira (250,000) that he had on him. The victims were then taken to Bonny Island on the orders of Lt. Salami's Commanding Officer. On getting to Bonny Island, the other crew members noticed that Mr. Olowofoyekun could hardly walk. He died shortly after and his corpse was deposited in the Bonny General Hospital mortuary by Lt. Salami, who coerced the other victims to say that Mr. Olowofoyekun took ill and died.

3. On 13 July 2012, the *Punch Newspaper* reported that Mrs. Rebecca Adewumi, 70 years, of Omuo Ekiti, Ekiti State, was allegedly dragged to the palace of Oba Noah Omonigbehin by youths of the community, who alleged that she was a witch and

needed to be exorcised. At the Oba's Palace, she was stripped naked, beaten and given a concoction to drink, and thereafter locked in a room for three days by the youth. All attempts by her children and relatives to rescue her failed. She was reported to have died three days later as a result of the ill treatment. The matter was reported to the police by relatives of the deceased.

Additionally, note that several other human rights organizations have reported numerous instances of violations of the right to dignity in Nigeria during the period under review.

Recommendations

The Commission is gravely concerned with violations of the right to dignity in Nigeria – particularly the use of torture and CIDT.

The Commission therefore undertakes to:

- Work closely with the National Committee Against Torture and other interested parties to bring greater resources and capacity to the fight to eliminate all practices of torture and CIDT in Nigeria.

The Commission additionally makes the following recommendations:

Federal Government:

- Criminalize torture within domestic legislation, in line with the definition contained within the UN Convention against Torture.
- Implement the Optional Protocol to the UN Convention

against Torture, and establish an independent body to conduct unrestricted visits to all places of detention to monitor the conditions of detention and treatment of detainees.

- Immediately deposit a declaration pursuant to Article 21 of the UNCAT stating that Nigeria recognizes the competence of the Committee Against Torture to receive and consider communications against Nigeria.
- Immediately deposit a declaration pursuant to article 22 of the UNCAT recognizing the competence of the Committee Against Torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction, who claim to be victims of violations by a State Party of the provisions of the Convention.
- Conduct an open review of the work and operating procedures of the as-yet dormant and in-effectual National Committee Against Torture to enable the body to fulfill its obligations to monitor places of detention and investigation all allegations of torture and CIDT conducted by State actors and others.
- Make public all annual reports and outcomes of investigations undertaken by the National Committee Against Torture to date.
- Invite the UN Special Rapporteur on Torture to conduct an official visit to Nigeria to investigate Nigeria's compliance with the CAT and the OP-CAT.

Nigeria Police Force

- Police should use scientific method of investigation as opposed to torturing suspects to confess to crimes

Judiciary

- Where courts find that a suspects statement was extracted under duress, the court should sanction the investigating Officer

National Assembly

- The National Assembly should intensify efforts at seeing that the Anti Torture Bill pending before it is passed into law

Chapter Three



Right to Freedom of Expression and the Press

Introduction

The right to freedom of expression and the press is fundamental to an open and democratic society. Without open and free expression and freedom of the press, opinions and ideas can't be freely debated, and the government and other actors can't be publicly scrutinized. Given Nigeria's recent history of military rule in which violations of freedom of expression and the press were common place, the Commission is particularly concerned when instances of violation of this right occur.

The Commission believes it is of critical importance to recognize that because there is horizontal application of human rights in Nigeria, all violations of the rights – whether perpetrated by State actors or private individuals – can be attributed to the State. Horizontal application is particularly relevant to the right to freedom of expression and the press in so far as the Nigerian security forces have not only an obligation not to directly violate the rights of individuals, but also a positive obligation to ensure that the rights of individuals to freedom of expression and the press are not violated by other private individuals.

Legal framework in Nigeria

The objective of protecting and promoting the right to freedom of

expression and the press is stated within the Directive Principles articulated in Section 22 of Chapter 2 of the 1999 Constitution, reading:

22. The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people.

The right to freedom of expression and the press is made justiciable and thereby binding and enforceable in Nigeria by its inclusion Chapter 4, Section 39 of the 1999 Constitution, where it is stated:

39 (1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

Additionally, the right to freedom of expression and the press is protected by numerous international human rights instruments signed by Nigeria, including Article 19 of the ICCPR and Article 9 of the African Charter.

Complaints received by the Commission

In the period under review (2011-12), the Commission received no complaints of violations of the right to freedom of expression and the press in Nigeria.

Other cases reported / documented

In the period under review (2011-12), there were many reports in the

media on incidents of violations of the right to freedom of expression and the press in Nigeria. These include:

1. On 4 January 2011, Mr. Kenneth Amabipi, a reporter with a Port Harcourt-based community newspaper, the *National Network* was assaulted by suspected thugs while covering the 19th edition of the Ogoni Day celebration in Bori in Rivers State. Mr. Amabipi was reportedly beaten to a coma by persons suspected to be thugs hired to destabilize the event. The perpetrators were neither apprehended nor prosecuted.
2. On 17 February 2011, the correspondents of three dailies in Enugu - Lawrence Njoku of *The Guardian*, Christopher Isiguzo of *ThisDay*, and Tony Edike of *Vanguard*- received death threats from unknown persons through text messages sent to their mobile phones. The messages threatened to kill them if they don't leave Nsukka, Enugu State. The text messages were sent through a foreign number and the same number was later used to call the three reporters. They did not answer the calls. The threats were reported to the Police, but the matter was not investigated and nobody was arrested or questioned.
3. On 10 March 2011, three reporters from different newspapers - Nankpah Bwakan with *News star*, Francis Zhitta of *Star Pointer*, and Nandom Kura of the *News Herald* - were arrested by officers of the Directorate of Security Service (DSS) and detained for three days at the DSS offices in Jos, Plateau State. They were accused of being in possession of and distributing leaflets insulting the State Governor, Jonah Jang, an allegation that the journalists denied. The State Commissioner of Information, Mr. Gregory Yenlong further accused them of undermining state security. They were released without being charged to court.

4. On 3 April 2011, the State Security Service (SSS) detained Mr. Segun Olatunji, the Kaduna State correspondent of *The Punch* newspaper. Mr. Olatunji had been invited by the State Director to the SSS Offices. On arrival at about 10:45 AM, Mr. Olatunji was detained in a room under the watch of armed guards who were changed at intervals. He added that he was rendered incommunicado as the SSS operatives seized his mobile phone. At about 5:45pm, he was taken to the office of the State Director, Mr. Zamba, who interrogated him over the source of the story published in the Sunday Punch, titled, 'Angry Voters set INEC office Ablaze in Kaduna'. Mr. Zamba said the report embarrassed the state government and the Independent National Electoral Commission (INEC). Mr. Olatunji was released at about 8:00pm after being warned to desist from writing such "sensitive stories" to avoid getting himself into trouble with the authorities. He was not charged to court.

5. On 2 April 2011, Ms. Patience Ogbo, a reporter with the private daily, *Next Newspapers*, was assaulted and her camera damaged by a soldier in the course of covering the election in Lagos. Ms. Ogbo reported that on the day she was assaulted, she was in the convoy of a Commissioner of Police inside a commercial bus in Jibowu area of Lagos. The matter was neither investigated nor was the soldier reprimanded.

6. On 16 April 2011, Ms. Hajara Liman, a reporter with the *News Agency of Nigeria* (NAN) in Gombe State, along with other journalists, encountered a group of youths at Funkaye Local Government Area on their way back from covering the 2011 general elections. The youths chased them, shouting insults and throwing stones at them. The rear windscreen of the car in which they were driving in was shattered and Ms. Liman was

injured. She was taken to another village where she was treated. Nobody was arrested or tried for the assault.

7. On 18 April 2011, at about 5:30pm, Mr. Lawal Sadiq, a correspondent with *People's Daily* in Kaduna was barred by soldiers from covering parts of the State affected by election violence. Mr. Sadiq had been invited, along with several other journalists, by the Nigeria Police in Kaduna State to visit an area affected by post-election violence and he and the other journalists were on their way to Unguwan Sarki in Kaduna North Local Government Area when they were turned back, despite their efforts at identifying themselves with their identity cards. The Soldiers warned them to turn back or be dealt with. The matter was reported but no action was taken.
8. On 20 April 2011, nine journalists from different print and electronic media were attacked by a group of armed youth, numbering over fifty at Mokola area of Bida, in Bida local government area of Niger State. They were covering the Niger State governorship campaign of the Peoples Democratic Party (PDP) candidate in the area. Nobody was arrested or prosecuted for the attack.
9. On 21 April 2011, Mr. Santos Owolo, a reporter with the *National Point Newspaper*, was brutalized while covering a peaceful demonstration by Ubima Youths Against Gov. Rotimi Amaechi's administration at the Rivers State Government House in Port Harcourt, Rivers State. The Deputy Commissioner of Police and Commander of the Swift Operation Squad (SOS, a joint military patrol team), Mr. Oni, allegedly acting on the Governor's instructions, ordered the arrest and brutalization of Mr. Owolo, who was thoroughly beaten by the SOS and his digital camera

confiscated for 3 days. No member of the SOS team was arrested, investigated or prosecuted for the assault.

10. On 11 May 2011, about 20,000 copies of the weekly *National Life Newspaper* were confiscated in Makurdi at the orders of the Governor of Benue State for alleging that the Governor had forged a school certificate. Mr. Akin Orimolade, the Abuja bureau chief of the newspaper thereafter went into hiding to avoid security agents sent after him. In addition, the staff of Vintage Press, publishers of *National Life*, were also hounded by security agents who said they were acting on the orders of the State Police Chief, Ibrahim Mohammed. The confiscated copies were never returned and no one was prosecuted for the seizure.
11. On 11 May 2011, the Enugu correspondent of the *Independent Newspaper*, Mr. Emmanuel Nzomiwu, was brutalized by a combined team of the State Security Service (SSS) Operatives and the Nigeria Police Force stationed at the Enugu office of the Independent National Electoral Commission (INEC) while honoring an invitation to cover the presentation of a Certificate of Return to Mr. Sullivan Chime. Mr. Nzomiwu and other journalists were entering the conference hall of the INEC, where the event was to take place, when the security agents accosted them and asked them to turn back, saying the venue was full and could not accommodate any more journalists. The journalists explained that they were invited to cover the event for their respective media houses, but the agents did not listen. An argument ensued, and Governor Chime's Media Assistants, Dan Nwomeh and Chukwudi Achife came to plead with the security agents to allow the journalists in, explaining that the journalists were invited. In the ensuing arguments, the security operatives seized Mr. Nzomiwu and beat him using every

available weapon they had; pushed him to the ground and rained blows on him. His clothes were torn in the process. Then they took him out of the venue. The security operatives were neither investigated nor prosecuted.

12. On 13 May 2011, Prince Tamunoemi Kingdom, a reporter with *Africa Independent Television* and another crew member were beaten in Ozoro, Delta State by officials of the ruling People's Democratic Party (PDP) for filming the harassment of a man at the polling station during an election. The video camera and the windscreen of the journalist's vehicle were also damaged. The PDP officials were not brought to justice.
13. On 7 June 2011, the Ogun State House of Assembly passed a resolution that journalists from privately-owned Media houses should henceforth be barred from covering their parliamentary proceedings. This was after a security scare in Nigeria and a reported bomb discovery within the assembly chambers during the lawmakers' inauguration on June 6, 2011. An 11-member ad-hoc committee, headed by Mr. Abiodun Akonovoyon and comprising the heads of the Nigerian Police and the State Security Service, was formed to investigate circumstances surrounding the discovery of the bomb. In their report on the bombing, they recommended that all journalists, except those from government-owned media, should be barred from covering parliamentary proceedings. Reporters from government-owned media would need to be identified by the House Information Unit before they would be allowed in.
14. On 10 June 2011, ASP Goddy Sylvester, an Assistant Superintendent of Police attached to the Oyo State House of Assembly Building in Ibadan, Oyo State, assaulted Mr.

Olalekan Adetayo, a correspondent at *The Punch* newspaper, and Mr. Tade Olutayo, a correspondent for *Silverbird* Television. ASP Sylvester sprayed his tear gas canister directly into both correspondents' eyes while they were entering the premises of the assembly to cover the inauguration of the seventh assembly. The Correspondents' Chapel of the Nigeria Union of Journalists (NUJ), Oyo State Council, petitioned the State Commissioner of Police, Mr. Adisa Bolanta, describing the assault on their colleagues as unprovoked. They asked the police commissioner to ensure that ASP Sylvester was brought to book for the assault. It was not answered.

16.

15. On 27 August 2011, at about 4:40pm, security guards from Kings Guards and soldiers deployed to guard the bombed United Nations office in Abuja manhandled Mr. Patrick Ugeh, the Abuja correspondent of *This Day* newspapers. Mr. Ugeh, who went there to gather additional information, was informed journalists were no longer allowed to go close to the main building. As he was about to leave, a family of four came in with photographs of their brother, Garba Yakubu, a security guard with Kings Guards, who was killed in the blast. Mr. Ugeh convinced them to allow him take a shot of the picture and they also agreed to grant an interview. As soon as Mr. Ugeh took a shot of the picture, one of the security guards from Kings Guard sprang up and asked what he was doing. Mr. Ugeh explained, but he was ordered to delete the picture. He refused, explaining that it did not have anything to do with their work. But the guard called his colleagues, who also called over about three armed soldiers. One of the soldiers seized the mobile phone with which he took the photograph and they pushed him out of the premises. When his phone was returned, the photograph had been deleted.

17.

a correspondent at *The Punch* newspaper, a correspondent for *Silverbird* Television, fired his tear gas canister directly into both of them while they were entering the premises of the Nigerians' Chapel of the Nigeria Union of Oyo State Council, petitioned the State Attorney General, Mr. Adisa Bolanta, describing the police officers as unprovoked. They asked the police to ensure that ASP Sylvester was brought to justice. It was not answered.

At about 4:40pm, security guards from the police deployed to guard the bombed premises in Abuja manhandled Mr. Patrick Ugeh, a correspondent of *This Day* newspapers. Mr. Ugeh, after additional information, was informed that he was no longer allowed to go close to the main entrance to leave, a family of four came in with his brother, Garba Yakubu, a security guard who was killed in the blast. Mr. Ugeh allowed him to take a shot of the picture and they went for an interview. As soon as Mr. Ugeh took a picture, one of the security guards from Kings Guard stopped him and asked what he was doing. Mr. Ugeh explained, that he was taking the picture. He refused, explaining that he was going to do with their work. But the guard who also called over about three armed police officers seized the mobile phone with the picture and they pushed him out of the premises. When the phone was returned, the photograph had

16. On 30 August 2011, Mr. Bayo Alabira, the Plateau State correspondent with *People's Daily* newspaper was brutalized by soldiers attached to the Special Task Force (STF), code-named Operation Safe Haven, in Jos, Plateau State, for taking photographs of the violence during the Eid-el-Fitri prayer. The men of the STF beat Mr. Alabira, using their gun butts and inflicting deep cuts all over his body. They also kicked him, with their boots until he fainted. He was left unattended to but was rescued by a passerby, who took him to a safe place and called his colleagues. His colleagues then took him to Sauki Hospital for treatment. Though the matter was reported, the assailants were neither arrested nor prosecuted for the assault.

17. On 11 October 2011, at about 2pm, nine police officers led by Mr. Emma Ogolo from Police Criminal Investigation Department (CID) in Lagos stormed the Lagos offices of *The Nation* newspaper and arrested senior staff, including Mr. Lawal Ogienagbon, the Deputy Editor and Mr. Dapo Olufade, the News Editor. According to Mr. Kunle Fagbemi, the Nation's General Editor, nine detectives, led by Mr. Emma Ogolo, came in two vehicles (a white-colour Rover Sport Utility Vehicle (SUV)), marked PFN 357 B and a blue-colour Peugeot 504 Salon car, marked 2413 B, with the following inscription: 'The Nigeria Police Force, Anti-Human Trafficking Unit'. Mr. Fagbemi further stated that three of the detectives entered the Lagos premises, while the two vehicles parked outside the gate with three men waiting in them. In each of the waiting vehicles were an armed policeman, a plain-cloth security operative and the driver. At their arrival, they requested to see Mr. Victor Ifijah, the Managing Director/Editor-in-Chief and Mr. Gbenga Omotoso, the Editor, who, at the time, were not in the office. Mr. Fagbemi believes that Mr. Olufade was arrested because the detectives could not find any of the other four senior editors they were

looking for, among whom were: Mr Kunle Fagbemi, the General Editor; Mr. Waheed Odusile, Managing Editor; Mr. Adesina Adeniyi, Deputy Editor, News; and Mr. Bolade Omonijo, Group Political Editor.

Detectives in Abuja had, earlier in the day, arrested Mr. Yusuf Ali, the Managing Editor in charge of Northern Operations and Mr. Yomi Odunuga, the Abuja Bureau Chief. Mr. Ogienagbon was flown to Abuja after making a statement and where he was detained with Mr. Ali and Mr. Odunuga at the Nigerian Police Headquarters. Ms. Dupe Olaoye-Oshinkolu, the Labour Correspondent of the newspaper, and Mr. Jide Adegbenjo, the Chief Security Officer (CSO), were also detained.

On October 12, 2011, Mr. Lawal Ogienagbon, Mr. Dapo Olufade, and Mr. Yomi Odunuga were released while Mr. Yusuf Ali was released October 13, 2011. Explaining their arrest and detention, the Inspector General of Police, Mr. Hafiz Abubakar Ringim, stated that the four editors were arrested, following a complaint by former President Olusegun Obasanjo alleging that a letter published in the October 4 cover story of The Nation entitled, "Obasanjo's 'Secret Letter to Jonathan Stirs Anger. Ex-President seeks sack of PTDF Chief, Four Others," which was purportedly written by him to President Goodluck Jonathan was forged. The arrested journalists were never charged in court.

18. On 22 October 2011, at about 8:00pm, Mr. Zakariya Isa, a cameraman with the Nigeria Television Authority (NTA), was killed by three gunmen suspected to be members of the radical Islamic Sect, Boko Haram at his residence in Maiduguri, Borno State. The gunmen were said to have come in an unmarked vehicle demanding to see Mr. Isa, and when he came out, one

whom were: Mr Kunle Fagbemi, the General Editor; Mr. Odusile, Managing Editor; Mr. Adesina, Editor, News; and Mr. Bolade Omonijo, Group Editor.

Earlier in the day, arrested Mr. Yusuf Ogunniyi, Editor in charge of Northern Operations and the Abuja Bureau Chief, Mr. Ogienagbon after making a statement and where he was arrested and Mr. Odunuga at the Nigerian Police Station. Dupe Olaoye-Oshinkolu, the Labour Editor of the newspaper, and Mr. Jide Adegbenjo, the Editor (CSO), were also detained.

In 2011, Mr. Lawal Ogienagbon, Mr. Dapo Ogunniyi and Mr. Odunuga were released while Mr. Yusuf Ogunniyi on October 13, 2011. Explaining their arrest and the Editor General of Police, Mr. Hafiz Abubakar said the four editors were arrested, following a statement by President Olusegun Obasanjo alleging that in the October 4 cover story of *The Nation*, titled "Secret Letter to Jonathan Stirs Anger. Ex-PTDF Chief, Four Others," which was written by him to President Goodluck Jonathan, arrested journalists were never charged to

On October 11, at about 8:00pm, Mr. Zakariya Isa, a member of the Nigeria Television Authority (NTA), was arrested. He was suspected to be members of the radical Islamist group Boko Haram at his residence in Maiduguri, Borno State. He was said to have come in an unmarked car to see Mr. Isa, and when he came out, one of

the suspects pulled out a Kalashnikov rifle from his gown and fired several shots into Mr. Isa's head and chest at the entrance of his house. The sect had threatened that it would target reporters, claiming that spokesmen who were not part of the sect were being quoted by the media as speaking for them.

19. On 9 November 2011, Mr. Olajide Fashikun, the editor of *National Accord* newspaper, a publication based in Abuja, was arrested. The policemen stormed the Abuja office of the newspaper, over stories about Nigeria Football Federation (NFF). Specifically, Mr. Fashikun disclosed that he was arrested over stories he published about a letter alleging FIFA's President, Mr. Sepp Blatter's signature was forged in a document. The journalist was later released on bail, but his laptop and hard drive were confiscated by the police as part of their investigation into alleged libel initiated by the NFF.
20. On 21 February 2012, the National Broadcasting Commission (NBC) banned the Ogun State Television (OGTV) from streaming its signal on the web without the approval of the NBC. According to Mrs. Maimuna Jimada, the NBC's spokesperson, the NBC stopped OGTV because live-streaming of broadcasts is an added value to broadcasting, and a station needs to get approval before doing so.
21. On 11 March 2012, the Islamist terrorist group Boko Haram, which has claimed responsibility for numerous bombings in several cities in Northern Nigeria, threatened to take action against three newspapers for alleged false reporting. The sect alleged that the newspapers had attributed statements to the sect that were not made by its members. It also claimed that the newspapers published reports and opinions which portrayed the sect negatively while portraying the government and

security agents positively. The sect's spokesperson, Abu Qaqa, made the threat in a phone-in interview with reporters in Maiduguri, Borno State. According to Mr. Qaqa the three daily newspapers: the *National Accord*, the *Vanguard* and the *Nigerian Tribune*, have defied the ethics of journalism by publishing what he said were "opinionated reports and features on our group and its activities in the North, while we did not make such statements or claims...."

22. On 26 April 2012, at about 11:30am, the Abuja office of Leaders and Company, Ltd, publishers of *ThisDay* newspaper, was bombed when a man driving a Toyota jeep with registration number BU 389 BWR, drove into the office and detonated a bomb he was said to be carrying. At about the same time, a building called SOJ plaza, in Kaduna, which houses three dailies: '*Daily Sun*', '*ThisDay*' and '*The Moment*' newspapers, was also bombed. The State Security Services (SSS) investigation revealed that about 5 persons, including the suicide bomber in the Abuja attack, died in the incidents in Abuja and Kaduna, with many others injured. Boko Haram, claimed responsibility for the bombings, saying it was sending a message to the media that it would no longer condone reports misrepresenting it. Boko Haram also accused the media of not being objective but taking sides. Abul Qaqa, spokesperson for Boko Haram, told *Premium Times*, in an exclusive interview, that his organization was fed up with the deliberate misinformation being peddled in Nigerian and foreign media. Mr. Qaqa cited three instances where he claimed Boko Haram was misrepresented in media reports, warning that the group would attack more media outfits. One of the suspected masterminds of the bombing was later arrested.

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On 1 May 2012, the extremist Islamic sect Boko Haram posted a video on YouTube in which it warned of more attacks on media organizations in Nigeria and named the media institutions that will be targeted in future attacks. The 18-minute video, named the media houses the group plans to attack next as the *Voice of America* (Hausa Service), *Radio France* (Hausa Service), *The Guardian*, *Daily Trust*, *The Nation*, *Vanguard*, *The Punch* and *Nigerian Tribune*, among others. The video, posted in the name of Alhaji Mani, showed a recording of the bombing of *ThisDay* newspaper's Abuja office.

In June 2012 Mr. Uwalaka was at the hospital to cover the release of corpses of victims of the June 3, 2012 Dana Air crash when he was attacked by the mortuary attendants. The photojournalist was admitted at the intensive unit of the hospital following the beating. Mr. Uwalaka lost some of his personal belongings in the attack, including his phone and his PENTAX 30mm zoom lens camera. The Lagos State governor Babatunde Fashola (SAN), condemned the assault and promised to bring the perpetrators to book. The alleged violators were later charged to court for assault.

On 7 August 2012, hundreds of former militants invaded the Secretariat of the Nigeria Union Journalists (NUJ), in Warri, Delta State, threatening to burn down the building in a protest over the non-payment of the monthly stipend agreed to under the Amnesty Programme. They came with various weapons and kegs of petrol, and were accompanied by 17 women who said they were demonstrating in solidarity with their husbands who had been trained by the Government under the second phase of the Amnesty Programme. The Programme was aimed

at disarming and re-integrating former militants into normal life. When they learned that there was no reporter available to interview them and cover their protest, the former militants attempted to lynch the Chairman of the Correspondents' Chapel of the NUJ, Michael Ikeogwu. The *Galaxy Television* correspondent in Warri, Dele Fasan tried to calm the youths, but was manhandled for failing to record the protest. Soldiers and policemen quickly intervened, and arrested a handful of the protesters. Thereafter, the remaining protesters demanded that journalists come to interview them in 30 minutes and when it became clear that most reporters had fled, the protesters smashed the glass doors of the building. Mr. Gbenga Ahmed, a reporter with the privately-owned *Independent Television* based in Benin, also had his car vandalized and was forced to record the protest. It took the efforts of the Commanding Officer of the 3rd Battalion, Nigerian Army in Effurun, a few kilometres from Warri. Lt. Col Ifeanyi Otu, who sent his men following a distress call from the leadership of the NUJ, to curtail the rampage.

26. On 26 October 2012, Mr. Mike Agada, a photojournalist with the News Agency of Nigeria, was assaulted by security men attached to Mrs. Clara Chime, wife of the governor of Enugu. Amebota Village in Enugu State. Mr. Agada was taking photographs at the funeral of an in-law to one of the Special Advisers to the Governor, when the security officers seized his camera. Although there was a quick intervention by the organizers of the funeral ceremony, the security men destroyed the cameras, a Nikon D300 professional camera and a SB-600 flashgun, reportedly worth about NGN700,000 (about US\$4,430). The security men also punched and kicked Mr. Agada several times while one of them, Corporal Joshua Eme

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In 2012, Mr. Mike Agada, a photojournalist with the *Associated Press* of Nigeria, was assaulted by security men. Mrs. Clara Chime, wife of the governor of Enugu State, Mr. Agada was taking photographs at the funeral of an in-law to one of the Special Advisers to the Governor, when the security officers seized him. Although there was a quick intervention by the police at the funeral ceremony, the security men destroyed his Nikon D300 professional camera and a SB-800 flash, reportedly worth about NGN700,000 (about \$1,000). The security men also punched and kicked him several times while one of them, Corporal Joshua Eke-

cocked his gun and threatened to shoot Mr. Agada. The beating was reportedly because the security men suspected that Mr. Agada had photographed them drinking beer while on duty. The Public Relations Officer of Enugu State Police Command, Ebenezer Amaraizu, confirmed that the matter was reported to his office and that he had advised the journalist to write a petition to the Enugu State Police Command and send a copy to the Chief Security Officer as well as the Chief Press Secretary to the Governor. He promised that necessary action would be taken as soon as the Police Command received the petition.

27. On 21 November 2012, political thugs believed to be acting on the orders of the Chairperson of Shagamu Local Government Area in Ogun State, Ms. Funmilayo Efuwape, attacked two journalists: Mr. Segun Olatunji of *The Punch* and Mrs. Olayinka Olukoya of the *Nigerian Tribune* for covering a protest by workers of the local government. They were dragged into the office of Ms. Efuwape after their camera and Blackberry phones were seized and their photographs deleted. Both Mr. Olatunji and Mrs. Olukoya had earlier sought Ms. Efuwape's response to a series of allegations leveled against her by the protesting workers, but she had dismissed them. The journalists were taking photographs of the deserted Shagamu Local Government Council Secretariat when the thugs attacked them, seized their equipment and dragged them to Ms. Efuwape's office. Their cameras and Blackberry phones were later returned, but none of their attackers were arrested or prosecuted.

28. On 9 December 2012, the Akwa Ibom State correspondent of *The Nation* newspaper, Mr. Kazeem Ibrahim, was assaulted and beaten to a coma by three operatives of the State Security Service (SSS) after he honoured an invitation to cover the

activities marking the 50th birthday anniversary of the Uyo State Governor, Godswill Akpabio. He was one of many journalists invited to cover the governor's birthday celebration, but on arrival, security operatives denied them entry into the hall where the birthday celebration was taking place. The Chief Press Secretary, Aniete Ukpe, intervened and the journalists were allowed in. However, when Mr. Ibrahim went to enter, an operative of the SSS pushed him back. Mr. Ibrahim asked why he was being barred, and in response, the operative attacked him. The security operatives were not sanctioned.

29. On 15 December 2012, at about 11:00pm, operatives of the State Security Service (SSS) apprehended Mr. Ozioma Ubabukoh, the Enugu State correspondent of *The Punch* newspaper, as he drove into his residence. They confiscated his laptop, mobile phones and then detained him in his house. Mr. Ubabukoh said the SSS men blocked him at the entrance of his residence in Trans-Ekulu area of Enugu, got into his car and asked him to surrender his phones and laptop, warning him not to write any stories for his newspaper that night. He said the operatives held him hostage till the early hours of Sunday, 16 December 2012. The SSS operatives reportedly took these measures in order to prevent him from writing any story on the deteriorating health of the State Governor, Sullivan Chime, who had been admitted for an undisclosed ailment to a hospital in India for a long period of time and was rumored to have died.

30. On 24 December 2012, at about 4:00am, Mr. Musa Mohammed Awwal and Mr. Aliyu Saleh, two journalists with *Al-Mizan*, a Hausa language newspaper published in Kaduna, North-west Nigeria, were arrested by armed security operatives from the State Security Service (SSS). The SSS officials, accompanied

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the 50th birthday anniversary of the Uyo State Governor, Akpabio. He was one of many journalists invited to the governor's birthday celebration, but on the day, security operatives denied them entry into the hall where the celebration was taking place. The Chief of Police, Ukpere, intervened and the journalists were allowed to enter. However, when Mr. Ibrahim went to enter, an operative pushed him back. Mr. Ibrahim asked why he was being pushed back, and in response, the operative attacked him. The operative was not sanctioned.

On December 12, 2012, at about 11:00pm, operatives of the State Security Service (SSS) apprehended Mr. Ozioma Ozioma, a State correspondent of *The Punch* newspaper, and drove into his residence. They confiscated his mobile phones and then detained him in his house. The SSS men blocked him at the entrance of his house in the Ekulu area of Enugu, got into his car and searched his phones and laptop, warning him not to write for his newspaper that night. He said the operatives held him as a hostage till the early hours of Sunday, 13 December 2012. The SSS operatives reportedly took the laptop to prevent him from writing any story on the arrest of the State Governor, Sullivan Chime. Mr. Ozioma was taken to an undisclosed ailment to a hospital. He was held for a long time and was rumored to have died.

On December 12, 2012, at about 4:00am, Mr. Musa Mohamed Musa, a journalist with *Al-Mizan*, a newspaper published in Kaduna, North-western Nigeria, was arrested by armed security operatives from the State Security Service (SSS). The SSS officials, accompanied

by armed soldiers, totaling about 40 people, arrested the journalists in their homes in Kaduna and took them to an undisclosed location. The journalist and members of their families were reportedly assaulted by the security operatives during the operation. Their wives and Mr. Awwal's son were also arrested and detained for some hours before they were released. Mrs. Awwal was assaulted when she asked about the identities and authority of the security men who came arrest her husband, and their son, who suffers from sickle cell anemia, was also allegedly assaulted before they were detained. The security operatives also took a laptop computer and eight mobile phones, belonging to different members of the journalists' families. The security operatives reportedly did not identify themselves and did not state the offences for which the journalists were being arrested. On the same day, another set of security operatives also visited the home of the Editor-in-Chief of *Al-Mizan*, Mr. Ibrahim Musa, who was not at home at the time of the visit. His home was searched without a search warrant and a laptop computer with an internet modem is presumed to have been taken away by the security operatives. The Journalists who were arrested in Kaduna were transferred to Abuja without the knowledge of their family or colleagues. They were held for over eight days without access to anyone, including their family members, doctors, lawyers or any other representative while in detention.

The journalists are believed to have been arrested and detained over a story they co-authored and published in the Friday, 21 December, 2012, edition of *Al-Mizan*, titled "Atrocities of JTF in Potiskum" in which they alleged that operatives of the Joint Task Force (JTF) had rounded up 86 youths in Potiskum, Yobe State, and that the detainees were being abused. The story was also posted up on *Al-Mizan's*

website www.almizan.info. They were released on January 1, 2013, without being charged to court.

Recommendations

Given its fundamental importance to democracy, the Commission strongly condemns all violations of the right to freedom of expression and the press.

The Commission makes the following recommendations:

Federal Government and State Governments:

- All requests for information under the Freedom of Information Act (FOIA) should be complied with immediately on receipt of such requests. To this end, both the Federal Government and State Governments should undertake to build the awareness and capacity of key persons within relevant ministries, agencies, and institutions to be able to respond to FOIA requests without delay.
- Government bodies should affirmatively make public all non-confidential documents about their work to enable public scrutiny and broader public participation in public affairs.

Nigerian Police force and other State security operatives:

- All searches of media houses, and the personal affects of journalists, should only be carried out with explicit orders

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of a court of competent jurisdiction. Any search without such preceding grant of authority is illegal and constitutes a violation of the right to freedom of expression and the press for which perpetrators must be held accountable.

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Chapter Four

Freedom of Thought, Conscience and Religion

The right to freedom of thought, conscience and religion is fundamental to an open and democratic society. In Nigeria this right is protected in Chapter 4, Section 38(1) of the 1999 Constitution, stating:

(1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

Additionally, the right to freedom of thought, conscience and religion is protected by numerous international human rights instruments that have been signed by Nigeria, including Article 18 of the ICCPR and Article 8 of the African Charter.

Complaints received by the Commission

In the period under review (2011-12), the Commission received the following complaints on violations of the right to freedom of thought, conscience and religion in Nigeria.

Chapter Four



Thought, Conscience and Religion

Thought, conscience and religion is fundamental to human society. In Nigeria this right is protected in the 1999 Constitution, stating:

Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others and in public or in private) to manifest and to practice his religion or belief in worship, teaching, practice and observance.

Freedom of thought, conscience and religion is a fundamental human rights instrument that Nigeria, including Article 18 of the ICCPR and the African Charter.

by the Commission

In the period under review (2011-12), the Commission received the following reports of violations of the right to freedom of thought, conscience and religion in Nigeria.

1. Other cases reported / documented

In the period under review (2011-12), the Commission found that the insurgent group, Boko Haram carried out attacks on churches and mosques, preventing people from worshipping freely. In some instances, people were forced to convert to Islam or they are killed. Here are some reports monitored through the media on incidents of violations of the right to freedom of thought, conscience and religion in Nigeria.

1. On 18 August 2012, *The Guardian*, as well as *The Punch* reported that 40 persons were killed by bombing while worshipping in churches at Wusasa and Sabon Gari areas of Zaria and Kaduna.
2. On 22 August 2012, the *This Day* reported that 2 persons were killed in Biu, Borno State, in an attack on a Mosque on 21 August 2012.
3. On 8 August 2012, the *Sun* reported that suspected members of Boko Haram attacked worshippers at Deeper Life Bible Church, in Orite, Okene Local Council in Kogi state, during a weekly Bible study, killing 16 people.
4. On 14 July 2012, *The Guardian* reported that a suicide bomber suspected to be a member of Boko Haram bombed the Central Mosque inside the Shehu of Borno's Palace in Maiduguri, killing a soldier and injuring other military personnel.
5. On 1 November 2012, the *Independent* reported that on 31 October 2012, 4 persons were killed when schools, churches and a telecommunication mast were destroyed by members of Boko Haram in Borno State.
6. On 11 June 2012, the *Leadership* reported that Churches in Jos, Plateau State, and Biu in Borno states, were attacked. In

Jos, a suicide bomber drove into the auditorium of Christ Chosen Church, along Rukuba Road in Jos North LGA, during worship hours, killing 10 worshippers while over 60 were injured. While in Biu, gunmen invaded the EYN Church and fired on worshippers, killing and injuring many of them.

Note however that several other human rights organizations have reported instances of violations of the right to freedom of religion in Nigeria during the period under review.

Recommendations

Given the lack of reporting of cases of violation of the right to freedom of thought, conscience and religion during the period under review, the Commission concludes that there is a lack of understanding of this right in Nigeria.

The Commission therefore undertakes to:

- Broadly educate and disseminate information about this right in effort to build greater awareness and ensure its protection and promotion

Part 2: Economic, Social, and Cultural Rights

While observing that up to date economic, social and cultural (ESC) rights are generally given less prominence in Nigeria than civil and political rights, the Commission urges a shift towards greater recognition of ESC rights and attention to holding Nigeria accountable to respect, protect, promote and fulfill these rights.

Indeed, the Commission notes that many areas of very serious concern to Nigerians – inter-communal violence, other violent conflicts, even terrorism – have their roots in social and economic grievances relating to poverty, resource scarcity, resource control and management, corruption, environmental degradation, etc. For this reason, the Commission recognizes that advancement of social and economic rights will in turn lead to greater respect for and protection of civil and political rights.

Moreover, the Commission recognizes that violations of civil and political rights all too often have long-term implications for social and economic rights. For instance, inter-communal violence and conflict can push victims further into poverty by destroying livelihoods and basic necessities of life. Acts of terrorism can cause not only loss of life but have long-term implications for the rights to education, health, and food, among others. Arbitrary arrests, prolonged pretrial detention, and everyday corruption disproportionately affect the poor and impede progress out of poverty.

To reorient human rights policies and practices in Nigeria with a view to ending this vicious cycle, this section gives detailed attention to specific ESC rights – right to health, right to education, right to adequate

shelter/housing, right to food, right to environment, and labour rights. The fact now is that the Commission receives numerous complaints relating to ESC rights due, in part, to a low level of respect for these rights and the general level of poverty and lack of good governance. You will recall that while civil and political rights are justiciable under the 1999 Constitution of Nigeria, economic and social rights are not. Hence the flagrant violation of Economic and Social Rights in Nigeria. The Commission also notes that certain thematic chapters are fundamentally inter-related with ESC rights – corruption, inter-communal conflict, etc.

Legal framework for ESC rights

Most ESC rights were first recognized internationally in the Universal Declaration of Human Rights. Subsequently, the International Covenant on Economic, Social and Cultural Rights (ICESCR) became the first legally binding international treaty to systematically recognize this class of rights and, specifically, the following:

- The right to work, i.e. to gain a living by work freely chosen and accepted;
- The right to just and favourable conditions of work, i.e. with regards to remuneration, safe and healthy working conditions, equal opportunity for advancement, and rest, leisure and reasonable limitation of working hours;
- The right to form and join labour unions;
- The right to social security and social insurance;
- The state's obligation to provide protection and assistance to the family and to recognize only marriages entered into with consent of the intending spouses;
- The right to an adequate standard of living, e.g. adequate food,

clothing and housing, and the state's obligation to ensure the right to be free from hunger;

- The right to the highest attainable standards of physical and mental health;
- The right to education;
- The state's obligation to ensure compulsory free primary education for all; and
- Certain cultural rights.

In addition to the above individual rights, the ICESCR also recognizes two essentially inter-related peoples' rights: a people's right to self-determination; and a people's right to freely dispose of their natural wealth and resources.

The African Charter on Human and Peoples' Rights recognizes many of the same ESC rights and peoples' rights, as well as expanding recognition to new rights, i.e. rights to development and environment. The rights worth noting in particular are:

- The right to property, limiting the state's power of compulsory acquisition;
- The right to work under equitable and satisfactory conditions;
- The right to enjoy the best attainable state of physical and mental health;
- The right to education;
- The right to take part in the cultural life of one's community and the state's obligation to promote and protect a community's traditional values;
- The state's obligations to protect the family and the rights of women, the child, the aged, and persons with disabilities;
- The peoples' right to freely dispose of their wealth and natural resources;

- The peoples' right to economic, social and cultural development; and
- The peoples' right to a generally satisfactory environment.

In addition to the above, decisions of the African Commission on Human and Peoples' Rights (African Commission) have recognized other ESC rights – namely the right to shelter/housing and the right to food – as implicit in the African Charter. Similarly, the UN Committee on Economic, Social and Cultural Rights (CESCR) has further developed the contents of many ESC rights through its general comments.

Nigeria has signed and ratified both the ICESCR and the African Charter, making these instruments internationally binding. Nigeria has also domesticated the African Charter, making many ESC rights provisions domestically binding, even though it has yet to fully domesticate the ICESCR. To demonstrate full participation in the UN human rights system, the Commission urges Nigeria to fully domesticate the ICESCR – for example by amending the 1999 Constitution to include all ESC rights in Chapter IV. The Commission additionally urges Nigeria to sign and ratify the Optional Protocol to the ICESCR, giving Nigerian citizens the opportunity to lodge complaints regarding the violation of ESC rights before the UN Committee – and thereby ensuring access to justice through alternative means.

Further, the Commission notes with concern the provision of Section 6(6)(c) CFRN, 1999 which limits the powers of the Court from entertaining matters relating to the provision of Chapter 2 of the constitution. It is true that the 1999 Constitution of the Federal Republic of Nigeria only mentions economic and social concerns in Chapter II (directive principles) rather than in Chapter IV (fundamental rights), meaning that the principles articulated in Chapter II are not themselves justiciable. However, these principles – along with Nigeria's voluntary

ratification of instruments such as the ICESCR and the domestication of the ACHPR – lend support for the ESC rights that are separately guaranteed under Nigerian law. Indeed, Nigerian courts have recognized and granted relief for violations of ESC rights found in the African Charter and the ICESCR.

As a state party to the ICESCR and the African Charter, Nigeria has the duty to respect, protect, promote, and fulfill ESC rights. The ICESCR focuses on the duty of state parties to use maximum available resources to progressively achieve full realization of ESC rights. Under the African Charter, however, the fulfillment of rights is absolute and immediate, i.e. not dependent on “available resources” nor subject to “progressive realization.” According to the African Commission:

All rights, both civil and political rights and social and economic, generate at least four levels of duties for a State that undertakes to adhere to a rights regime, namely the duty to respect, protect, promote, and fulfill these rights. These obligations universally apply to all rights and entail a combination of negative and positive duties. (Emphasis added)

In any event, it should also be noted that notions of “available resources” do not enable state parties to endlessly delay fulfillment or hide behind corruption or mismanagement to justify failure to make sufficient resources available to fulfill ESC rights. Indeed, as elaborated in the Limburg Principles, states parties have “minimum core obligations” for each ESC right that attach immediately irrespective of the level of economic development.

Another duty on states parties to these instruments is the obligation to guarantee ESC rights without discrimination, particularly across genders, and to put in place particular measures to ensure equal enjoyment of ESC rights by traditionally marginalized or vulnerable

groups. Beyond the ICESCR and the African Charter, other instruments to which Nigeria is party underscore the importance of ESC rights protection to such groups. For instance, the Protocol to the African Commission on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) enshrines women's right to adequate housing, right to food security, right to education, labour rights, and economic and social welfare rights, among others.

General recommendations on ESC rights

The Commission therefore undertakes to:

- Launch various public education activities aimed at raising awareness across Nigeria about ESC rights and the types of ESC rights-related complaints that can come before the Commission
- Hold thematic public inquiries on issues relating to ESC rights
- Develop materials to train and assist Nigerian civil society organization in specialized techniques for monitoring and documenting ESC rights violations.

The Commission further makes the following recommendations:

To the Presidency and the National Assembly:

- Amend the 1999 Constitution of the Federal Republic of Nigeria to incorporate all ESC rights into Chapter IV or otherwise domesticate the ICESCR
- Sign and ratify the Optional Protocol to the ICESCR
- Adopt and implement federal policies aimed at fulfilling ESC rights

- Through the appropriate legislation provide additional safeguards against the violations of ESC rights of marginalized and vulnerable groups, and through policy and programs ensure that these groups have equal and fair access to the enjoyment of those rights

To State Government and Houses of Assembly:

- Enact state legislation recognizing and protecting ESC rights
- Adopt and implement state policies aimed at fulfilling ESC rights
- Review, revise, or redo policies that violate the ESC rights of marginalized and vulnerable groups to ensure government compliance with international and national standards

Chapter Five

Right to Health

Introduction

The right to health contains freedoms (i.e. freedom from discrimination and involuntary treatments) and entitlements (i.e. access to timely, acceptable, and affordable care of appropriate quality). It is an inclusive right, extending to timely and appropriate health care, and to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, healthy occupational and environmental conditions, and access to health-related information, including sexual and reproductive health.

Legal framework in Nigeria

The right to health is protected in numerous international human rights treaties and agreements, including the Universal Declaration of Human Rights, and the International Covenant on Economic, Social and Cultural Rights. Article 25 of the Universal Declaration of Human Rights (UDHR) provides that "[e]veryone has the right to a standard of living adequate for the health and wellbeing of himself and his family..." Article 12 of the International Covenant on Economic, Social and Cultural

Article 12 of the ICESCR) further elaborates that the right to health is the "right of everyone to the enjoyment of the highest attainable standard of health" (see also Preamble to the Constitution of the World Health Organization). However, there are nonetheless core minimum standards, i.e. certain entitlements that are so basic and fundamental that they are required in all circumstances (see UN CESCR General Comment No. 14). Article 12 of the ICESCR specifically calls for:

"Provision for the reductions of...infant mortality and for the healthy development of the child; the improvement of all aspects of environmental and industrial hygiene; the prevention, treatment and control of epidemic, endemic, occupational, and other diseases and the creation of conditions which could assure medical service and medical attention in the event of sickness."

Other human rights instruments that provide for the right to health include the ACHPR, CEDAW, CERD, CRC, ICCPR, and the ILO.

Health is also protected under the Constitution of the Federal Republic of Nigeria 1999. Section (3)(d) of the directive principles of Chapter 2 asserts that "[t]he State shall direct its policy towards ensuring that there are adequate medical and health facilities for all persons."

On 27 September 2012, the High Court of Lagos State gave a ruling in the case of *Georgiana Ahamefule v. Imperial Medical Centre & Dr. Alex Okeke* (Suit No. ID/1627/2000), awarding 5 million Naira damages to Georgiana Ahamefule on grounds of unlawful termination of employment and 2 million Naira in compensation for unlawful HIV testing without the

informed consent of the Plaintiff. The lawsuit challenged the wrongful termination of her employment as a nurse by Imperial Medical Center on account of her HIV positive status. The Court held that the termination was illegal, unlawful, and based on malice and extreme bad faith. The court also held that the subjection of the Plaintiff to testing without her consent was unlawful and that denying the Plaintiff medical care constituted a violation of her right to health. The Commission commends this judgment, as it represents a major victory for persons living with HIV/AIDS, who are often subjected to discrimination on account of their status.

Progress toward realization of the right to health in Nigeria

Efforts have been undertaken by the government to improve the health of all Nigerians, in line with the UN Millennium Development Goals. However, some areas continue to see drastic declines (i.e. maternal and child mortality), while others have been overwhelming successes (i.e. polio). Indicators from various sectors include:

- **Maternal and child mortality:** In June 2011, the United Nations Population Fund released a report on "The State of the World's Midwifery" providing new data on the midwifery workforce and policies relating to newborn and maternal mortality in 58 countries. According to the report, in 2010, maternal mortality rate per 100,000 births in Nigeria was 840, compared to 608.3 in 2008 and 473.4 in 1990. The mortality rate for children under 5 years old, per 1,000 births was 143 and the neonatal mortality as a percentage of mortality of children under 5 years old was 28%.

- **Polio:** Nigeria has had some success in eradicating polio, by reducing the number of cases by 98% between 2009 and 2010.
- **HIV/AIDS:** The government's National HIV/AIDS Strategic Framework for 2005 to 2009 set out to provide ARVs to 80 percent of adults and children with advanced HIV infection and to 80 percent of HIV-positive pregnant women, all by 2010. However, only 31 percent of people who needed treatment for advanced HIV infection received it in 2009. By 2010, antiretroviral treatment coverage remained low, with only a quarter of adults and 7 percent of children in need of treatment receiving it. Currently 1.4 million adults and 262,000 children eligible for antiretroviral treatment remain without it. As a result of this slow progress, the treatment goals were set back to 2015 in the revised framework (2010 to 2015).

In 2010, NACA launched its comprehensive National Strategic Framework covering 2010 to 2015, requiring an estimated N756 billion (around US\$ 5 billion) to implement. The aims included in the framework are to reach 80 percent of both sexually active adults and most at-risk populations with HIV counselling and testing by 2015; ensure 80 percent of eligible adults and 100 percent of eligible children are receiving ART; and to improve access to quality care and support services to at least 50 percent of people living with HIV by 2015. Despite being the largest oil producer in Africa and the 12th largest producer in the world, Nigeria is ranked 156 out of 187 on the United Nations Development Programme (UNDP) Human Poverty Index. This poor development position has meant that Nigeria is faced with huge challenges in fighting its HIV and AIDS epidemic.

Globally, it has been noted that effective HIV/AIDS measures rely on a close relationship between human rights and health. In the absence of promotion and protection of human rights, it becomes increasingly difficult to prevent the spread of HIV, and the impact of the epidemic on individuals and communities becomes greater. The new HIV/AIDS strategic response focuses on fighting discrimination and stigmatization, acknowledging people living with HIV/AIDS and other vulnerable groups, and ensuring that they are protected against stigmatization and discrimination. In this regard, and in line with the UNAIDS Joint Programme on HIV/AIDS held in Senegal in 2012, an Inter-Ministerial Committee was set up by the Ministry of Justice, NACA, and the Commission as well as other stakeholders to find the way forward. The purpose of the Committee is to find possible ways of collaborating and identifying the rights of people living with HIV/AIDS to ensure their protection and also to strategize on how to effect changes through the law.

- **Health insurance:** The National Health Insurance Scheme was established by an act of the National Assembly to provide easy access to healthcare for all Nigerians at an affordable cost through various prepayment systems. As at present, the scheme is limited in scope of coverage. There is however the need to review the law to make it more comprehensive and to expand its scope.

Several bills are currently pending before the National Assembly, aimed at health related matters, such as:

- **Anti-discrimination Bill (HIV/AIDS)** – The Anti-discrimination Bill (HIV/AIDS) is currently before the National Assembly. The Bill contains provisions for the prevention of HIV/AIDS—based stigmatisation, discrimination and to protect the rights and dignity of people living with and people affected by HIV/AIDS (PLWHA) and other related matters. Specifically, the bill seeks to protect PLWHA by:

- a. Eliminating all forms of discrimination based on HIV status;
- b. Creating a supportive environment so that people living with HIV and AIDS are able to continue working under normal conditions for as long as they are medically fit to do so;
- c. Promoting appropriate and effective ways of managing HIV in the workplace and other fields of human endeavor;
- d. Creating a safe working environment for all employers and employees;
- e. Creating a balance between the rights and responsibilities of all parties at the workplace; and
- f. Giving effect to the human rights guarantees contained in Chapters 2 and 4 of the Constitution of the Federal Republic of Nigeria and international and regional human rights and labour instruments.

if the bill passes and is signed into law, it will greatly assist the protection of the rights of PLWHA.

- **National Health Bill (NHB):** The National Health Bill seeks to provide a framework and strategies for effective planning, financing, governance, delivery, monitoring and evaluation of

healthcare services in Nigeria. The NHB guarantee Nigerian access to a minimum package of basic health services including the provision of free medical care for children under five years of age, pregnant women, the elderly and people with disabilities, as well as guarantee funding at the primary healthcare level where over 70 per cent of the nation's disease burden can be addressed. If passed, the bill will likely be a strong tool for positively transforming the public health system.

Additionally several health related policies were under consideration and implemented during the reporting period. These include:

- National Health Policy on Primary Healthcare
- National Policy on HIV/AIDS
- National Policy on Immunization
- Workplace Policy on HIV/AIDS
- National Policy on Roll Back Malaria
- National Policy on Elimination of Female Genital Mutilation

Complaints received by the Commission

In the period under review (2011-12), the Commission received, reviewed and investigate a matter initiated in 2010, and received complaints of violations of the right to health in Nigeria. These are:

1. Between March and June 2010, it came to the Commission's attention that there was a very high rate of miscarriages and young child deaths due to lead poisoning in Zamfara State. A state of lead poisoning was first uncovered during

routine immunisation exercise in the affected area. An investigation carried out by the MSF revealed that the deaths were caused by a high amount of lead in the blood stream of children living near artisanal gold mines. MSF determined that the lead poisoning was caused by unlicensed artisanal gold mining which was exposing children and others in the surrounding areas. The US based Human Rights Watch (HRW), reported in 2012 that research conducted in Zamfara State revealed that children were exposed to lead dust when processing ore in the mines or when miners return home covered with lead dust and interact with them.

About 2000 children are said to still be in need of treatment. HRW has stated that the deaths and ongoing health threats were neglected by all tiers of Nigerian government. At the time of this report, remediation is on going.

2. On 24 May 2011, the Commission received a complaint from M-A- who alleged that her partner, Chris M., deliberately infected her with HIV, and subsequently abandoned her. Investigation revealed that M-A- and Chris M co-habited for some time, during which they had unprotected consensual sexual intercourse. Although both parties were HIV positive, it could not be ascertained which party contracted the disease first. Consequently, the Commission referred both parties to counselling.
3. In April, 2011, Mrs. B-A- wrote a complaint to the Commission, stating that after the death of her husband in 2010, she was subsequently diagnosed with HIV, and upon discovering this, her late-husband's family had sent her out of the husband's house and taken her daughter. Thereafter, her late-husband's

brother had rented out her property and collected the rent. Mrs. B-A- requested that the Commission intervene to her daughter and the property back. At the intervention of the Commission, her daughter was released to her as well as the property.

Other cases reported / documented

In the period under review (2011-12), there were some reports in the media on incidents of violations of the right to health in Nigeria. These include:

1. On 31 March 2012, news media reported that about 7 prison inmates in Yola Prison, Adamawa State died from a disease suspected to be cerebral spinal meningitis. Although the number of other inmates infected was unknown, due to the heat and congestion in the prison, it is likely that the disease had infected others as well. Accordingly, other inmates at Yola Prison asked prison officials to immediately ensure that the inmates were immunized against the viral disease.

Recommendations

The Commission therefore undertakes to:

- Broadly disseminate the judgment in the case of *Georgiana Ahamafule v. Imperial Medical Centre & Dr. Alex Molokwu*

The Commission further makes the following recommendations:

To the Presidency and the National Assembly:

- Pass into law the pending Anti-Discrimination Law (HIV/AIDS), and ensure that the provisions of the bill can be implemented in a timely fashion
- Pass into law the National Health Bill, and ensure that the provisions have the financial and governmental backing necessary for implementation

Uganda: Nigerian Prison Service:

- Recognizing the vulnerability of persons in detention and the government's responsibility for persons in their custody, the Commission urges all prison officials to be vigilant in ensuring that all inmates receive necessary vaccinations consistent with their obligation to protect and fulfil inmates' right to health.

Chapter Six

Right to Adequate Housing or Shelter

Introduction

Millions of urban poor live in informal settlements in Nigeria's cities and towns. These settlements are typically characterized by poor or no access to government services, such as drainage, waste disposal, roads, electricity, and water. Too often, in the name of "beautification" or "modernization," or otherwise, governments demolish these communities without providing any notice or complying with any due process as required by law, in blatant violation of the inhabitants' right to adequate housing or shelter. Unfortunately during the reporting period, the Commission observed no decrease in the number of forced evictions carried out by State governments, including Lagos, Harcourt, and the FCDA in Abuja.

Legal framework in Nigeria

At the national level, section 16 (2)(d) of the 1999 Constitution of the Federal Republic of Nigeria, provides that the State "shall direct its policy toward...ensuring that suitable and adequate shelter... are provided for the citizens." (Emphasis added)

The right to adequate housing is explicitly set out in the Universal Declaration on Human Rights (UDHR), the International Covenant

Economic, Social and Cultural Rights (ICESR), *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, as well as other international or regional human rights instruments that Nigeria has signed or to which Nigeria is party. Further, it should be noted that the right to adequate housing has been read into Articles 14, 18 and 19 of the African Charter on Human Rights, which Nigeria has ratified and domesticated into national law.

The UN Committee on Economic, Social and Cultural Rights has observed that the right to adequate housing should not be interpreted simply to mean four walls and a roof over one's head, rather it should be seen as the right to live somewhere in security, peace and dignity. It means that the right to adequate housing guarantees the right to security, peace and dignity.

According to international human rights law, for housing to be adequate, it must, at a minimum, meet the following criteria: security of tenure, availability of services, affordability, habitability, and accessibility.

The Nigerian government has both negative and positive obligations vis-à-vis the right to adequate housing and shelter. This means the State is obliged first to respect the right to adequate housing, for instance refraining from carrying out forced evictions. The State must also take steps to progressively realize the right to adequate housing, for instance by improving sanitation infrastructure to residential areas, regulating or monitoring the market to ensure availability of adequate, low-cost housing for the poor, and putting in place laws, policies, and administrative structures that allow all persons to enjoy security of tenure, irrespective of tenure status, indigene-ship, or income level.

Progress toward the realization of the right to adequate housing shelter in Nigeria

In Nigeria, many people live in poor quality housing and in unsanitary environments. The problem of inadequate housing in cities has been compounded by the rapid rates of urbanization due to economic growth outpacing urban planning. Indeed, UN Habitat estimates 67% of Nigeria's urban populations live in slum conditions. Widespread insecurity of tenure – most pronounced in urban areas – is one of the gravest threats to the realization of the right to adequate housing, allowing all-too-frequent forced evictions.

Housing difficulties are more serious for low-income groups in urban areas, due to inflated real estate values, speculation in the housing market, influx of poor migrants, and lack of adequate planning and infrastructure development. Other causes of the housing problem include: high rent in the formal housing market, inadequate mortgage finance, and inaccessibility to mortgage loans. These problems have resulted in overcrowding, poor and inadequate social amenities, unsatisfactory and unwholesome environmental conditions and urban squalor; the absence of open space, the over development of land leading to the overcrowding of buildings, inaccessibility within residential areas, high cost of building materials and high cost of rent has further exacerbated the difficulties in obtaining housing.

Environmental degradation and global climate change also have negative effects on housing as many of the victims are rendered homeless through natural disasters, thereby increasing the number of internally displaced persons in the country. An instance is the 2011 flood that engulfed almost all the States in Nigeria, displacing thousands of people.

Complaints received by the Commission

Following its mandate to promote and protect the rights of the citizens, the Commission, in 2012, embarked on fact-finding missions to different parts of the country affected by demolition (forced eviction) such as the Alimosho waterfront in Lagos state, the Abonnema Wharf in Port-Harcourt in Rivers State, and some other areas, including the Federal Capital Territory (FCT). These include:

1. On 25 February 2012, Mr. Olu Akin, a resident of Galadimawa village, in Lokogoma District of the FCT, complained to the Commission about a threatened forced eviction, requesting it to intervene and restrain Messoto Estate Developers Nigeria Limited from demolishing his house. According to the complainant, the private developer embarked on the demolition without a prior notice to residents.
2. On 17 May 2012 the Commission received a complaint from Mrs. Juliana Solomon, alleging that Cpl. Godwin Baba, her brother-in-law, after the death of her husband in 1998, evicted her and her three children from the house she shared with her late husband in Masaka, Nasarawa State. According to her, Cpl. Baba had collected all her husband's benefits.

After several attempts, the Commission successfully settled the matter. The house at Masaka was returned to Mrs. Solomon and her children.
3. On 9 July 2012, a group of women from Mpape District, FCT, visited the Commission in a peaceful protest and lodged a complaint on the proposed mass demolition of houses in the Mpape district by the officials of Development Control without giving them enough notice.

The protest led to an on-the-spot Commission. The NHRC invited the Commission on Development Control, and directed that action on the planned demolition pending the allegations in the complaint. The Commission helped to stay the planned date of this report.

4. The Commission suo moto took up demolition exercise of the Makoko/lw Lagos State Government. During the finding mission the Commission was demolition began on 16 July 2012, for notice issued by the Ministry of Water given to a few residents at random; affected had no notice. According to V did not consult with affected residents alternative shelter, resettlement, or exercise continued until 21 July 201 leader, Timothy Azinkpono Hunkpowan without provocation, by a police officer command. This incident and a peaceful to the Lagos State Secretariat succ demolition – but not before thousands w the course of this mission, the Commiss Lagos State, led by the Lagos State Attor

The Commission is holding a public hearing and eviction.

5. On 29th August 2012, the Commission commission to Port Harcourt, in response to

received regarding the Rivers State Government's demolition of Abomema Wharf waterfront from 27 June – 2 July 2012. Although the Rivers State Government had been attempting for several years to buy-out property owners in the community, the demolition began suddenly and without any notice. According to reports, the Government staged shootings in the community in the early morning hours of 26 June 2012; then over a hundred young men in the community were rounded up and detained (without charge). Using "insecurity" as an excuse, the Government next descended on the community to begin the demolition on the morning of 27 June 2012; radio announcements throughout that day were the only notice given. By 2 July 2012, estimated 10,000-20,000 persons (number unconfirmed) were forcibly evicted. During this mission, the Commission met with officials of the Rivers State Government.

Cases reported / documented

Under review (2011-12), there were some reports in the various incidents of violations of the right to adequate housing or ownership. These include:

On 25 March 2012, residents of Ikorodu protested against the demolition of about 15 houses at Idi-Orogbo, Agunforye area of Ikorodu Bayeku Local Council Development Area of Lagos State. According to the residents, the demolition was ordered by Isaac Ogunlana, a member of the family from which they bought parcels of land. They alleged that there had been a problem between residents of the community and the landowners due to leadership tussle in the family.

2. In March 2012, the Benue State Urban Development Board demolished over 100 houses, including St Joseph's Catholic Church, Ityav and some roadside shops, and displaced more than 1,000 students of the Benue State University.
3. In June 2012, the FCDA embarked on the demolition of houses in Bassan Jiwe, a village along Airport road in Abuja. Residents stated that the demolition was carried out without prior notice to residents. In the process of the demolition, an unidentified middle-aged man died as he watched his house being pulled down by the FCDA bulldozers.
4. On 16 June, 2012, the Leadership Newspaper online reported that the Benue State Urban Development Board demolished about 50 houses, including shops and mosques in Wadata area of Makurdi. In the course of the demolition, 2 children were killed in a cross fire between the police and youths who were protesting against the demolition.

Recommendations

The Commission therefore undertakes to:

- Publicly condemn all forced evictions
- Commence immediate investigation into any complaints of forced evictions put before it
- Work with any interested state or federal legislators or policy-makers to develop policies and legislation that adequately prevent forced evictions in line with international human rights law and standards.

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Recommendations

The Commission therefore undertakes to:

Publicly condemn all forced evictions
Commence immediate investigation into any complaints of forced evictions put before it
Work with any interested state or federal legislators and stakeholders to develop policies and legislation that address and prevent forced evictions in line with international human rights law and standards.

The Commission additionally makes the following recommendations:

To the Federal Government and State Governments:

- Immediately stop carrying out all forced evictions
- Provide remedy, including compensation and alternative accommodation to all individuals affected by past forced evictions
- Work with communities targeted for upgrading or other projects to develop community-led regeneration plans
- Adopt legal and procedural safeguards to ensure that all evictions comply with international human rights standards, including by introducing legislation in the State House of Assembly setting out safeguards that must be followed to prevent forced evictions (based on the UN Basic Principles and Guidelines on Development-based Evictions and Displacement)
- Prioritize the most disadvantaged groups in any housing policies and programmes

Chapter Seven



Right to Food

Introduction

The right to food is primarily relevant to urban and rural poor populations that do not have adequate access to suitable and sufficient food supplies. However, this right also applies to persons in custody of the state – whether in detention, a public medical facility, or a public educational institution. With fertile lands for growing crops and significant natural resources, no one in Nigeria should go hungry. Indeed, in this context, violations of the right to food – hunger and malnutrition – are particularly concerning to the Commission. By breaking the right to food out into a chapter on its own for the first time in a State of Human Rights report, we intend to elevate the importance of this right in our discourse in hopes that violations of the right to food will become few and far between in the coming years. However, we know well that this will only be possible with concerted efforts by the Nigerian government to take steps to ensure food security for all Nigerians.

Legal Framework in Nigeria

At the national level, section 16 (2)(d) of the 1999 Constitution of the Federal Republic of Nigeria, provides that the State “shall direct its policy toward...ensuring that *suitable and adequate food*...are

...citizens." (emphasis added)

...is recognized in various international and regional human rights instruments. The International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Nigeria is party, recognizes the right to adequate food in Article 11. This same article also recognizes a "right to be free from hunger" and obligates the state to take necessary measures to ensure this right. In other words, the right to be free from hunger is a minimum core obligation of the state.

Similarly, the African Commission has recognized a right to food as encompassing 4 (right to life), 16 (right to health), and 22 (right to economic, social and cultural development) of the African Charter. In *Idahosa v. Nigeria*, it reasoned as follows:

"The right to food is inseparably linked to the dignity of human beings and is therefore essential for the enjoyment and fulfillment of such other rights as health, education, work and political participation. The African Charter and international law require and bind Nigeria to protect and preserve existing food sources and to ensure access to adequate food for all citizens. Without touching on the duty to promote food production and to guarantee access, the minimum core of the right to food requires that the Nigerian Government should not destroy or contaminate food sources. It should not allow private parties to destroy or contaminate food sources, and prevent peoples' efforts to feed themselves."

The Universal Declaration of Human Rights proclaims that, "...everyone has the right to a standard of living adequate for the health and well-being of himself and his family including food." Similarly,

Universal Declaration on Eradication of Hunger and Malnutrition provides that "every man, women and child has an inalienable right to be free from hunger." Other non-legally binding human rights instruments, including recommendations, guidelines, resolutions or declarations, also make provisions for the right to food and serve as guidance for the implementation of the right to food.

The right to food means the right to have continuous access to the resources that will enable one to produce, or earn a living and purchase, food - not only to prevent hunger, but also to ensure health and wellbeing. The right to adequate food is said to be realized when every man, woman and child, alone or in a community with others, has the physical and economic access at all times to adequate food or means for its procurement.

In 1999, the UN Committee on Economic, Social and Cultural Rights described the right to food as having access by all to "food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; in ways that are sustainable and that do not interfere with the enjoyment of other human rights."

It is important to emphasize certain elements of the right to food that must be met before the right is realized: availability, sustainability, accessibility, affordability, and adequacy.

- *Availability* refers to the fact that there must be enough food to feed the entire population.
- *Sustainability* means that food must be available at all times to feed not only the present but future generations.

Availability requires that economic and physical access to food be guaranteed. Economic access means that food must be affordable, in other words it must be within the reach of people at all income levels at all times, while physical accessibility means that food should be accessible to all people, including the vulnerable, such as children, the sick, persons with disabilities, or elderly.

Affordability means that the cost of staple foods must be within the financial means of all people, including most importantly, the poor.

Nutrition means that the food must satisfy dietary needs required by an individual.

Realization. Nigeria has yet to domesticate the ICESCR. Article 1(1) of the 1999 Constitution of the Federal Republic of Nigeria does not mention "adequate and sufficient food" as one of the goals that Nigeria should direct its state policy. However, this is mentioned within Chapter II and thus is non-justiciable.

Realization of the right to food in Nigeria:

To combat extreme hunger, the government set an agenda for Millennium Development Goals (MDGs). But the implementation of the MDGs towards eliminating extreme hunger remains a challenge because of a number of factors, including: access to land for agriculture (especially small husbandry), discriminatory land practices, access to finance for agricultural activities, high cost of certain agricultural inputs (despite government subsidy/credit programs), lack

of coordination between federal and state policies/programs, high levels of corruption, security of major food-producing areas (especially in the Northeast Nigeria), and water scarcity due to climate change in certain

Unemployment and underemployment lies at the core of hunger, and poverty. For the poor, labour is often the only use to improve their well-being. Creating productive opportunities is essential for achieving poverty reduction, sustainable economic and social development. Many strategies are often related to agricultural and rural development include using labour-intensive agricultural methods. However, necessary to also focus more attention on developing medium-size enterprises and promoting micro projects that are easily accessible to those living in the area. Additionally, for those with a job, food is prohibitively expensive in Nigeria, currently the single highest portion of the average farm budget.

Furthermore, violent conflict (i.e. inter-communal violence) remain serious barriers to ending extreme hunger, malnutrition and poverty in Nigeria. It is therefore critically important to reestablish peaceful coexistence and religious tolerance, creating the enabling environment for eradication of extreme poverty and poverty to move forward.

Environmental degradation and global climate change have affected food production, impacting land and water resources, expose the nation to the risk of food insecurity in the near future. Steps are not taken to boost food production.

Some states, such as Ekiti and Osun, have developed programs to assist in feeding school children and the aged. These

others aimed at providing basic sustenance to the most vulnerable populations are critical steps towards protecting the right to food for all Nigerians.

Complaints received by the Commission

During the reporting period (2011-12), the Commission received only one complaint regarding the right to food.

1. In August 2012, the Commission received a complaint from Pieray & Associates, an independent research organization, alleging that genetically modified foods are not safe. According to them, research has shown that the population of people who suffer diabetes, high blood pressure, cancer, kidney, liver, heart and immune system failure has also been increasing, and that these disease conditions are linked to genetically modified foods, as evidenced by the safety test that was carried out with genetically modified potatoes by notable experts in the field of lecithin. The complaint was referred to the Consumer Protection Council for investigation, which replied stating that the Government has carried out necessary studies into the effect of such genetically modified foods before attempting to introduce to the populace.

Recommendations

Due to the low number of reported cases despite the widely known challenges in the fulfillment of the right to food for many in Nigeria, the Commission undertakes to conduct broad sensitization around the right to food to increase public awareness that the Commission will accept

complaints of violations of the right to food.

The Commission additionally makes the following recommendations:

To the Federal Government:

- Promote programs and policies that stop environmental degradation caused by the extractive industries and other pollutants, thereby protecting water and land necessary for food growth.
- Promote programs and policies that encourage more food growth and production in Nigeria, while helping ensure that the costs of transporting and processing the products are reduced. This includes: ensuring access to safe and usable roads for the transportation of products; constant electricity supply to prevent refrigerated and processed goods from going bad; and specialized training in agriculture and husbandry practices to ensure the most up-to-date and sophisticated methods are employed.

To State governments:

- Develop programs and policies to ensure that especially vulnerable populations, such as children and the aged, are provided food welfare.
- Protect small and local farmers by ensuring secure land tenure and fair and accurate compensation when farming land is acquired.
- Promote programs and policies that stop environmental degradation caused by the extractive industries and other pollutants, thereby protecting water and land necessary for food growth.

Chapter Eight



Right to Education

Introduction

The right to education is protected under Section 18 of the Constitution as part of the Fundamental Objectives and Directive Principles of State Policy. Section 18 asserts:

- (1) Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.
- (2) Government shall promote science and technology.
- (3) Government shall strive to eradicate illiteracy; and to that end Government shall as and when practicable provide (a) free compulsory and universal primary education; (b) free secondary education; (c) free university education; and (d) free adult literacy programme.

However, although the Nigerian government has committed itself to the protection of the right to education – for example, subsection (3) provides for free, compulsory and universal primary education – these provisions are limited by what is practicable for government to do. Generally, this is understood to mean that government will take whatever steps to fulfill certain objectives, but only within its financial and material means.

To further protect the right to education; in 2004 the federal legislature enacted the Universal Basic Education Act (UBE), which established the Universal Basic Education Commission. The UBE Act provides for free, compulsory basic education up to junior secondary school level.

At the international level, Nigeria is a state party to several human rights instruments that protect the right to education. For example, Article 13(1) of the ICESCR states:

"The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms."

Similarly, Article 17(1) of the African Charter on Human and Peoples' Rights (ACHPR) protects the right to education, stating: "*Every individual shall have the right to education.*"

Progress towards realization of the right to education in Nigeria

However, despite the legal framework that exists to protect the right to education, in practice education in Nigeria remains available primarily to those with financial means to send their children to school. This is, in part, because of decades of poor or non-existent investment in public education infrastructure. Public schools are largely under-resourced and overenrolled. As a consequence, a large percentage of school-age children attend private schools.

Complaints received by the Commission

In the period under review (2011-12), the Commission received no complaints of violations of the right to education in Nigeria.

Other cases reported / documented

In the period under review (2011-12), the Commission found no reports or media of incidents of violations of the right to education in Nigeria.

It is however that several other human rights organizations have reported instances of violations of the right to education in Nigeria during the period under review.

Recommendations

Without equal access to education, inequality will only be further entrenched in Nigerian society. In recognition of the fact that education is a threshold right fundamental to human development and critical to progress of Nigeria at all levels, the Commission urges:

To the Federal Government:

- Develop and implement a plan to ensure access to free and quality education at all levels of Nigeria society, but most especially the poor.

To State Governments:

- To make greater efforts to ensure accessibility of quality education to all individuals, particularly the poor.

Part 3: Elections and Political Participation

Chapter Nine

Report on the Monitoring of the Conduct of Security Officials in the 2011 General Elections

Background

Security is a very important factor in the challenge of conducting free and fair elections. In contexts where security is guaranteed, politicians are most likely to abide and play by the rules of the game. Equally important is that the perception of the electorate on the state of security before, during and immediately after elections is a strong determinant of voter behaviour. If voters are assured that there is adequate security, there is likely to be high voter turn all things being equal. Contrariwise, fear of outbreak of electoral violence or breach of security is more likely to scare the voters away from the polling centres. Thus, the capacity and willingness of security agencies to provide adequate security in a non-partisan and impartial manner contributes immensely to the credibility of elections. Security reform is therefore imperative for countries such as Nigeria with a history of controversial elections.

Over the years, there has been considerable concern over the conduct of security agencies during general elections in Nigeria. The concern over the role of security agencies has arisen from fears of partisanship of security agencies during elections and widespread incidents of electoral violence. In many cases, security agencies are not only unable to prevent and curb electoral violence but are actually alleged to be perpetrators of violence directed at lawful participants in the electoral process. In many cases, post-election crises and violence have been

linked to public perception that incumbents manipulate the agencies to serve their interest of retaining power at all instance, the 1965 and 1983 elections were marred by violent perceived partisanship of security agencies. In fact, many politicians were known to have formed private militias to security agencies that had been mobilised to serve ruling 1983.

It is therefore not surprising that electoral violence has been key factors influencing the evolution of security agencies in For instance, the abuse of the regional and local government services by ruling parties was a key factor that influenced the the dual system of the police force and unification of the different authorities into the Nigeria Police Force. Consequently, returned to civil rule in 1999 after decades of military rule- dictators used some elements in the security services to rights of the citizenry- there were palpable fears about security agencies would play in the democratic setting. This more pronounced in 2003 when political incumbents were election. As state governors clamoured for the decentral Nigeria Police Force and establishment of state police election year approached, there were palpable fears that rationale advanced for state police was a ruse. The popular was that there was an orchestrated plot to politicise and use police to overtly play a partisan role in the elections.

Consequently, several initiatives toward reform of the security included a security and elections component. A key reform was to avoid politicization, which had potential effects on the country's democratic experiences. For police authorities took proactive measures to enhance the police to provide adequate security in an impartial manner 2003 elections. The Police Service Commission (PSC) p

of conduct and guidelines for conduct of the police during elections. It also embarked upon observation of the conduct security agencies during the elections. This special focus on observing the conduct of security agencies during elections represents a turning point in the history of election observation. It is based on the expectation that training the searchlight on security agencies will promote a greater sense of responsibility among officers deployed for election duty.

The 2007 general elections offered an opportunity for assessment of the impact of the new code of conduct on the performance of security agencies on election duty. Although, there was no systematic assessment of the conduct of the security agencies since observers were not deployed for this specific purpose, the general assessment of the 2007 elections was that security agencies performed below expectation. Security was adjudged the weakest link in the exercise which has been ranked among the most fraudulent in the annals of elections in the country.

It is against this background that CLEEN Foundation which partnered with the Police Service Commission in 2003 for election observation collaborated with the National Human Rights Commission (NHRC) to observe the 2011 elections. The need to observe the conduct of security agencies in the 2011 general elections is underscored by the fact that this was a crucial election. This is for two reasons. First, it was an election that promised to be the litmus test for the electoral reform initiative of the YarAdua/Jonathan administration. Second, the controversy surrounding the candidacy of President Goodluck Jonathan and many other incumbent politicians who were perceived to be facing stiff challenges heightened fears of manipulation of security and the prospects of electoral violence. The fears were aggravated by the outbreak of incidents of communal and religious violence in different parts of the country as the country approached the 2011 general

elections. The government had responded to these early signals by embarking upon massive mobilization of security forces indicating that the 2011 elections were likely to be the most contentious elections in the country's history. The Nigerian Armed Forces, Nigeria Police Force as well as paramilitary agencies such as the Federal Roads Safety Corps, Nigeria Immigration Service, Custom Service, Nigerian Prisons Service, Vehicle Inspection Directorate and the Nigeria Civil Defence Corps were mobilized for the elections.

Fears that some groups may attempt to disrupt the election process led to the declaration of the state of emergency, the amber light and signalled the need for reinforcement of security. However, the prospects of such security build-up impacting on human rights and the credibility of the electoral process are large. It is against this background that observation and monitoring of the conduct of the security agencies was considered imperative.

Methodology

The NHRC and CLEEN Foundation deployed observers to observe the National Assembly, Presidential and House of Assembly elections. Observers were recruited from legal professionals and civil society activists in all states of the Federation and the Federal Capital Territory who were not members of political parties. The key observation instrument was a questionnaire which was distributed to observers. The questionnaire was expected to be completed for each polling unit. The questionnaire elicited responses on wide ranging issues including the punctuality, effectiveness, impartiality and knowledge of officials about their roles in the election.

Two categories of observers were deployed. The first category consisted of observers stationed in specific polling units to monitor the proceedings of the elections from the arrival of the voters to the distribution of ballot papers and announcement of results. The second category consisted of observers who were deployed to

consisted of observers that visited different polling units as well as offices of the Independent National Electoral Commission (INEC) in different states. The two categories of observers served complementary roles. The roving observers were expected to capture trends through on-the-spot assessments of different polling units to complement the observers stationed in particular polling units to collect information on the conduct of security agencies on those polling units. The drawback of this approach was the lack of attention to the critical collation centres. However, the strategy enabled the NHRC and CLEEN Foundation to mitigate the challenges of deploying observers to a representative sample of polling units.

A total of 7689 polling units were monitored in the three rounds of elections. This represents some improvement from the 2003 elections when 1045 polling units were observed. The breakdown of number of polling units observed during each of the elections shows that 393, 3677 and 3,619 polling units were respectively observed during the National Assembly, Presidential, and Governorship and state House of Assembly elections. This small sample of the 120,000 polling units in the country has implications for the generalizability of the findings of the Observer Mission. Nevertheless, the randomness adopted for selection of polling units and the deployment of observers to all states of the federation and the FCT enhanced the representativeness of observed polling units. Consequently, the conclusions of the observation reports can be considered to provide a fair reflection of the conduct of security officials in the 2011 General Elections.

Information collated were analysed with the aid of social science statistical package and results were presented in the format of frequency and correlation tables. Results were generally presented according to states and geo-political zones. Results of the findings for each election observation were presented as preliminary findings in press conferences organized and addressed by representatives of

NHRC and CLEEN Foundation. The preliminary statements were given wide publicity in the media and circulated to critical stakeholders. A strategy was adopted to ensure that lessons learned are shared in order to enhance possibilities for addressing loopholes observed in future elections.

This final report provides a comprehensive analysis of all reports submitted by observers that observed the conduct of security officials during the three elections. The reports of the observers are considered credible as observers conducted their assignment in a relatively free environment. There were very few reported cases of attempts to obstruct election observation. Public enlightenment campaigns organized by INEC, civil society organizations and the mass media before the elections improved knowledge of the general public about security officials in particular on the important role of election observers in the conduct of free and fair elections.

Findings

The findings of the election observation mission will be presented in three sub-sections. These are the presence and punctuality of security officials, and the conduct and effectiveness of security officials.

Presence and punctuality of security officials

The observation checklist elicited information on the number of security officials present at each polling unit and whether or not security officials were punctual and stayed at their election duty posts. Analysis of the data showed that security officials were present in most polling units observed. Less than 1 per cent of polling units were reported to have no security officials in the election. Majority of polling units had more than one security officials. As Table 1 shows, security officials were distributed to different zones of the country. However, the South zone had the highest percentage of polling units with 3 or more

officials while the South East had the lowest percentage of polling units with 3 or more security officials. The observation could not reveal any systematic rationale for deployment of security officials. It is noteworthy that there was no noticeable increase in deployment of security officials after successive elections. For instance, the post presidential election violence in several northern states did not appear to influence deployment of security officials in the governorship and state legislature elections.

The observation reports showed that in majority of cases, security officials arrived at the polling units by 8 am when elections were supposed to commence as shown in Table 2. However, late arrival was most recorded in the South East zone and observation reports suggest that security officials were most punctual during the presidential elections. This is undoubtedly as a result of the criticisms that trailed late arrival of personnel and materials during the National Assembly election which held a week before the Presidential elections. However, this record was not sustained. This is because with the exception of the South East zone, a lower percentage of security officials arrived at the polling units by 8 am during the governorship and state legislature election than was recorded in the presidential elections. It would appear that the importance attached to the presidential elections may have accounted for the higher percentage of security officials that were punctual for election duty during the presidential elections.

Generally, observers considered the presence of security officials at polling units to be adequate. Most of observers claimed that the presence of security officials at all times at the polling units was either 'very adequate' or 'adequate'.

Table 1: Presence of security officials at the Polling Centre

Zones and Election	No police	1-2 police	3 or more police
- National Assembly - Gubernatorial and States' House of Assembly - Presidential	0	46	53
	0	46	52
	0	39	58
North – East			
- National Assembly - Gubernatorial and States' House of Assembly - Presidential	0	57	43
	0	60	36
	0	60	37
North – West			
- National Assembly - Gubernatorial and States' House of Assembly - Presidential	0	53	47
	0	66	32
	0	66	33
South – East			
- National Assembly - Gubernatorial and States' House of Assembly - Presidential	0	68	38
	0	69	27
	1	67	28
South – South			
- National Assembly - Gubernatorial and States' House of Assembly - Presidential	0	35	66
	1	52	47
	0	40	58
South – West			
- National Assembly - Gubernatorial and States' House of Assembly - Presidential	0	57	43
	0	73	24
	0	73	25

Conduct and effectiveness of security officials

The observer's checklist contained a number of questions intended to gauge the general conduct of the security officials and their effectiveness at the polling units. The questions were carefully designed to measure the extent to which security officials were aware of and complied with the rules and code of conduct. In their responses to some of these questions, the observers appeared to have been generally satisfied with conduct.

security officials. To start with the bearing of firearms at the polling units, observers reported that security officials mostly complied with directives not to carry firearms to the polling units. As Table 3 shows, possession of arms by security officials at polling units was minimal but more common in polling units in the South South and North West zones during the National Assembly election.

Table 2: Punctuality of security officials at the Polling Centres

Zones and Election	Police arrived before or by 8 a.m.	Police arrived between 8 a.m. and 9 a.m.	Police arrived after 9 a.m.
North - Central			
• National Assembly	70	21	9
• Gubernatorial and States' House of Assembly	63	27	9
• Presidential	68	19	9
North - East			
• National Assembly	51	25	25
• Gubernatorial and States' House of Assembly	56	31	8
• Presidential	63	27	6
North - West			
• National Assembly	54	36	11
• Gubernatorial and States' House of Assembly	59	30	7
• Presidential	68	23	7
South - East			
• National Assembly	31	23	46
• Gubernatorial and States' House of Assembly	48	28	19
• Presidential	44	36	17
South - South			
• National Assembly	63	17	20
• Gubernatorial and States' House of Assembly	51	27	20
• Presidential	82	22	14
South - West			
• National Assembly	50	26	12
• Gubernatorial and States' House of Assembly	55	23	6
• Presidential	67	23	5

With regards to display of courtesy, most of the observers considered the security officials to have been courteous and approachable during the general elections. The security officials were adjudged courteous by 80 per cent of observers in all zones and during all three elections. A similar trend of high level of satisfaction was expressed by observers on the degree of impartiality demonstrated by security officials in the polling units they observed as shown in Table 3. It should be noted that observers felt security officials were not impartial in the discharge of election duty in between 10 and 20 per cent of polling units in some states such as Bornu, Ebonyi, Ogun, Ondo and Kaduna.

The observers were also highly impressed by the ability of security officials to maintain order at polling units. Correspondingly, a large majority of observers reported that the polling units appeared safe and secure to all participants in the electoral process. In the isolated cases where observers reported of threats to security, they were highly impressed at the level and character of responses of security officials to the perceived threats. Exceptions to expression of satisfaction were recorded during the governorship and state legislature election in the South East and North East and during the National Assembly election in Bornu State where observers were dissatisfied with the manner of response of security officials to security threats in 25 per cent of polling units.

Observers also reported that security officials in most polling units followed the instructions of the presiding officers during the three elections. However, in some states notably Delta, Zamfara, Lagos and Cross River observers reported that security officials in at least a quarter of polling units failed to follow instructions of the presiding officer.

One other important finding of the observation was the minimal use of force during the elections. The National Assembly elections recorded

the highest case of use of force by security officials in 9 per cent of polling units. In such cases where security officials were reported to have used force on some persons during the election, observers considered such use of force as necessary in most polling units. Only in 8 per cent of polling units during the National Assembly elections was use of force considered 'not necessary at all'. Furthermore, in most polling units where security officials applied force, observers reported that the type and degree of force applied was generally proportionate to the perceived threats to security.

It is hardly surprising therefore that the assessment of observers about the overall conduct of security officials in polling units during the elections was mostly positive. As Table 4 shows only in an insignificant percentage of polling units was the conduct of security agencies considered to be 'fair', 'poor' and 'very poor'. Interestingly, assessment of the overall conduct of security agencies plummeted after successive elections. The observers were most impressed by the conduct of security officials in the first election (National Assembly) and least impressed with their conduct in the last election (Governorship and House Assembly). A plausible explanation for this trend is likely to be found in high stakes involved in the gubernatorial and state legislature elections and the accompanying challenges of policing the elections.

Table 3: Police Conduct at the Polling Centres

Zones and Election	Police armed with firearms? (Yes)	Police courteous and approachable? (Yes)	Police showed impartiality? (Yes)	Police maintained orderliness? (Yes)	Feeling of security at poll centres? (Yes)	Police handling of security threat? (Yes)
North - Central						
• National Assembly	12	89	81	74	68	75
	12	89	83	80	77	81
• Gubernatorial and States' House of Assembly	13	91	91	83	83	76
• Presidential						
North - East						
• National Assembly	5	90	83	86	87	89
	12	92	82	87	81	86
• Gubernatorial and States' House of Assembly	11	90	85	87	79	79
• Presidential						
North - West						
• National Assembly	15	89	83	76	79	89
	13	93	93	90	86	85
• Gubernatorial and States' House of Assembly	11	82	80	85	84	85
• Presidential						
South - East						
• National Assembly	8	90	83	72	81	100
	4	89	83	83	65	63
• Gubernatorial and States' House of Assembly	6	91	83	80	89	77
• Presidential						
South - South						
• National Assembly	20	85	80	80	63	87
	7	84	83	89	87	82
• Gubernatorial and States' House of Assembly	9	95	87	86	83	91
• Presidential						
South - West						
• National Assembly	7	90	76	85	88	100
	7	92	90	80	82	84
• Gubernatorial and States' House of Assembly	12	93	85	92	83	85
• Presidential						

Table 4: Assessment of overall conduct of security officials

Assessment	National Assembly	Presidential	Governorship/State House of Assembly
Very good	31	19	15
Good	48	62	65
Fair	7	10	12
Poor	0	1	1
Very poor	2	0	1

Conclusions

The foregoing findings reveal that the security officials deployed on election duty at polling units performed beyond expectation as most observers adjudged their overall conduct in the three elections to be either 'very good' or 'good'. This is a marked improvement to the 2003 elections when the report of the Police Service Commission concluded that:

Based on information collected, the following areas of observed police conduct at the polling centres during the April and May 2003 elections appeared less than satisfactory. These were impartiality in the performance of their duty; punctuality, and use of force. *Notwithstanding, considering the structural and institutional limitations under which the police in the country, especially during elections, police conduct and performance at the polling centres during the April and May 2003 elections were generally satisfactory.*

The improvement recorded can be attributed to the concerted efforts of government agencies with oversight functions on the conduct of security agencies, INEC and civil society organizations such as CLEEN Foundation after the 2007 elections. There are indications that several recommendations of the Police Service Commission which were taken

on board may have contributed to the improvements observed in the 2011 elections. Noteworthy is the inter-agency coordination which saw other security and para-military agencies collaborating effectively with the police during the elections.

However, although the reports from observers discussed above give very good rating of security officials there is need for caution in making generalizations on the basis of observation exercises that were confined to polling units. There is no doubt that such generalization about the conduct of security agencies would entail observation of the whole gamut of interventions of security agencies in the electoral process. The observation did not include conduct of security officials during transportation of electoral materials and at the collation centres where, as the 2003 election observation report of the Police Service Commission admitted, most of the election fraud was perpetrated. Sadly, the 2011 Election Observation Mission failed to apply the recommendation of the 2003 report that observation should be extended to activities of security officials during the transportation of election materials and at the collation centres.

Recommendations

The recommendations stated below were part of the preliminary reports issued after the three general elections and the supplementary elections in Imo State (see appendices). We consider them to be still relevant and wish to emphasize the need for them to be taken seriously by relevant authorities and stakeholders. It is however apposite to emphasize elections the following recommendations:

1. Security reinforcement during movement to collation centres

The security agencies need to institute an enquiry into all reported cases of ballot snatching with a view to sanctioning officials designated for providing security for movements in such cases. Future election observation should also entail observation of the movement of materials

to the collation centres and the conduct of officials at such centres.

II. Prosecution of suspected partial security officials

Press reports and observation reports show that in several states of the federation, some security officials were alleged to have supervised electoral fraud or provided security for perpetrators of electoral fraud. We reiterate the call for investigation of all suspected cases of compromise by officials and prosecution of officials found guilty. Urgent prosecution of offenders would serve as a deterrent to other officers in future elections. It is hoped that the Electoral Offences Tribunal when empaneled would have powers to prosecute security officials involved in electoral malpractices.

III. Post-election reviews

It would appear that the security agencies seemed to have moved on to other security challenges in the nation. Two months after the election, there has been systematic debriefing of security officers involved in election duty and security agencies are yet to provide a comprehensive report on their involvement in the election. It is important to reiterate the call for a post-election review of the intervention of security agencies in the election. The review should be comprehensive and aimed at exposing lessons learned to enhance performance in future elections.

IV. Special training of security officials

The different security agencies need to incorporate election duty in their training curricula. This is important as the nation's security agencies would be called upon to play important roles in future elections. It is necessary that officers understand the challenges of security in elections and appropriate tools of engagement. This would imply extending the code of conduct for police officers on election duty to officials of other security agencies.

V. Strengthen capacity of civil society

There is need for continued strengthening of the capacity of civil society organizations working with security agencies. Such support would go a long way in enhancing the capacity of such organizations to embark on comprehensive programmes beyond the electoral cycle.

Chapter Ten**Report on the Monitoring of the Kogi State
Governorship Election December 3, 2011.**

Being an extension of the Letters Of Agreement (LOA) on the election security project of the NHRC/UNDP 2011, this report will focus specifically on the implementation of the activities and results achieved in the extended LOA as the earlier part of the project had been reported on. The activities carried out for the said Dec 3, 2011 Kogi State Governorship election were as follows:

a) Training of security personnel.

1(one) DPO per local government area (LGA) was trained by NHRC resource persons on TOT basis from the 21 LGA'S in Kogi state. 21 other officers from FRSC, NSCDC and IMMIGRATION SERVICES all in Kogi state were trained totalling 42. They were all given IEC materials to quicken the step down training process due to shortage of time. The IEC materials distributed to the participants include the posters for security personnel on election duty, the handbook for security personnel and the training manual for security personnel. The security personnel were asked in the field whether they benefited from the step down training and they confirmed this and also showed their handbook given to them during the step down training. They also pasted the posters given to them at the polling stations to the admiration of the monitors when they arrived the polling stations

b) Deployment of election security Monitors.

A total of 210 election security monitors were deployed in Kogi state. This included 10 election security monitors per local government for 2 nights, 21 LGA team leaders for 3 nights who covered collation of election results at LGA level as well as 1(one) overall state team leader for 4 nights who covered collation and announcement of results at the state level.

c) Production of IEC materials for training and field work

i) Training manual for security personnel.

With the 42 security personnel trained on TOT basis, 5 copies of the manual were given to each to quicken the step down process in their various commands. 230 copies of the training manual for security personnel were distributed to the participants at the training.

ii) Handbook for security personnel.

2,548 polling stations in Kogi state were to be covered by a minimum of 5 security personnel during the elections. The total of 12,740 handbooks for security personnel were deposited at the Kogi state Police Command and distributed to all security personnel deployed for the election. Security officers seen in the field displayed their handbooks when requested to do so by the monitors.

iii) Posters for security personnel and Monitors

Each security personnel on election duty was given 2(two) posters ie 12,740 x2 totalling 25,480 posters
Each election monitor was given 10 (ten) posters to cover ten polling stations totalling 210 x 10 ie 2,100 posters. Considering the time constraint and peculiar

nature of languages in Kogi state, all the posters produced were in English language.

The total of 27,580 posters were deployed in the field and these were seen displayed at the polling stations and police stations in Kogi state during the elections.

iv) Handbook for election security Monitors.

Each of the 210 election security monitors deployed was given a handbook and they were seen in the field making reference to the handbooks. They appreciated the handbooks which constituted a quick reference point for them during the elections.

v) Checklists for election security Monitors for fieldwork

Each of the 210 monitors deployed was given 10 checklists to cover 10 polling stations in the LGA on Election Day totalling 2,100 checklists. About 1800 checklists were completed and returned. Difficult and inaccessible terrain in some parts of Kogi state affected the non completion of about 300 checklists by the monitors.

vi) Reflective Jackets.

For easy identification and security of election security Monitors, one reflective jacket each was given to each monitor totalling 210 reflective jackets. The monitors stated that the reflective jackets helped them to stand out in the field and they got quick answers from the security personnel and other stakeholders to carry out their assignment in the field.

d) Report writing

The compilation of the election report was carried out as a combined effort of the computer analysts, LGA team leader and state team leader. The findings from the field were summarised in the later part of this report.

e) Strategic briefing of stakeholders.

Due to the timing of the said elections, the NHRC issued a release on the outcome of the elections which were free and showed improved performance on the part of the security personnel as confirmed by other stakeholders after the election. It also outlined the achievements of the project with the support of UNDP.

f) Modalities for Project Implementation

Due to time constraints, direct payment method was used for the payment of services and vendors. In that case, there was no transfer of funds to the NHRC as UNDP handles payments on the certification of performance of service providers and supply by the vendors.

g) Timelines for the implementation of the project follows.

The timelines for the implementation of the critical activities of the project were kept despite the late signing of the LOA.

H) FINDINGS AND RECOMMENDATIONS ON THE MONITORING OF ELECTION SECURITY PERSONNEL AT THE KOGI GOVERNORSHIP ELECTIONS DEC 3, 2011

1. Punctuality

Observation reports indicated that security officials arrived at the polling units before 8.00am when polling was scheduled to begin.

to commence while 34% arrived between 8 and 9 am. This result shows consistency on level of punctuality recorded in the April elections where about 65% reported before 8am while 35% reported between 8 and 9am. Security officials were also reported to have remained in the polling units until the end of the voting exercise in most polling units. Only in 7% of polling units did security officials leave the polling units during the elections. This also represents some improvement on the April elections in which observers reported that security officials left 27% of polling units during the election. The improvement can be attributed to the presence of food and drink vendors at polling units that was obviously a market response to the observed demand for refreshments at polling units during the April elections. Like in the previous election, observers reported that most of polling units (78%) were manned by security officials throughout the duration of the polls.

2. Deployment

Generally, 3 or more security officials were deployed to the 26% of polling units and 38% of polling unit had at least 2 security officials. Consequently, 55% of polling units were deemed to have 'adequate' security while another 13% were said to have 'very adequate' security. 1% had no security personnel at all while 27% had only one security personnel posted at the polling station. The security officials were easily identifiable in 76% of polling units with nametags. Reports from observers further showed that all the polling stations in the city centers had adequate security personnel while some polling stations in the suburbs and hinterland had fewer or no security personnel deployed to them. It can therefore be presumed that the polling stations with one or no security personnel were predominantly located in the suburbs and hinterland.

3. Conduct of the security officials at the polls

The observers also reported that the conduct of security officials was in most cases satisfactory, consistent with observations in the April Elections. Most of the polling units were recorded to have security officials whose overall conduct was rated to be 'good' (64%) and 'satisfactory' (6%). The friendly disposition of security officials was noticed in most of the polling units with observers recording that they found security officials 'approachable' (64%). This disposition of security personnel can be attributed to sustained sensitisation and training of security personnel deployed on electoral duties for 2011 general elections by the National Human Rights Commission and the UN. 16 percentage of polling units recorded security officials who were considered to have been 'impartial' and 74% 'very impartial' during the polls. 2% were somewhat impartial while 1% was deemed as partial by the observers. However, there was significant variance in perceived impartiality or otherwise of security officials across the state.

In most of polling units (66%), security officials were reported to have followed instructions of presiding officials during the elections. This percentage is, however, relatively lower than the compliance rate (78%) recorded at the April Elections. This follows the trend of the April Elections where North Central (15%) zone recorded the largest percentage of polling units where security officials reportedly failed to comply with instructions of presiding officials.

4. Safety and security of the polling units

Safety of polling units was one of the major areas of concern before the commencement of the Dec 3, 2011 Kogi State Governorship elections. The CLEE Foundation had reported possible electoral violence in the state and this had heightened the tension amongst stakeholders. This must have affected the security arrangements which were beefed up

over the state resulting in a relatively violent free election in Kogi state as stated by most stakeholders after the election. Voters were perceived to have felt safe and secured in most of the polling units (86%). 0% of polling units was considered 'not safe and secure at all'. Again, observers noted that the presence of voters at the polling units throughout the duration of the polls engendered a greater sense of security even for the INEC officials who could easily be overpowered by hoodlums and party agents if left alone after voting.

The perceived improvement in sense of security of polling units is also evidenced by the fact that only 5% of polling units, as against 10% reported in the April Governorship elections witnessed incidents considered as threats to security. Security officials were also credited to have handled the threats in a commendable manner with no force used in any case. 71% considered there was no threat in any of the polling stations. The minimal use of force at the polls stemmed from the high rate of compliance of security officials with election guidelines on firearms at polling units following adequate training by stakeholders on human rights standards expected of security personnel on election duties.

5. Security to collation centres

The observation reports showed that there was improvement in provision of security to the collation centres. Furthermore, the security officials were reported to have accompanied polling officers and election materials to collation centres from 46% of polling units, a drop from 54% recorded in the April Governorship elections. This anomaly is consistent with the April findings where this breach of security was most common in the North Central and South South zones. Thus, security of election material and personnel to collation officers remained the weakest link during the Kogi State Governorship elections.

6. Welfare of security officials

Adequate provision for welfare of security officials is imperative for the conduct of free and fair elections as it will likely insulate security officials from corruptible offers of politicians. Observers noted complaints from security officials on the non-payment of their allowances before Election Day neither were they provided dry ration or communal equipment. Most of them used their own telephones to communicate and they were not given recharge cards to facilitate their assignments.

RECOMMENDATIONS

The Dec 3, 2011 Governorship election has generally been rightly adjudged to be substantially free, free and credible. However, the observation conducted by the National Human Rights Commission revealed a number of lessons especially in the conduct of security officials that need to be addressed to guarantee the success of future elections.

I. Security reinforcement during movement to distribution/collation centres

Reports of sporadic snatching of election materials or balloons during the movement to distribution/collation centres suggests the need for reinforcement by armed escorts during transport of materials to distribution/collation centres.

II. Redeployment of suspected partisan security officials

In cases where security officials played suspected partisan roles, officials should be redeployed and investigated accordingly. There is a need for a comprehensive review of the performance of security officials used in the 2011 election. This is particularly important as the partisanship of some security officials is likely to have a very negative impact on future elections in the state.

III. Enforcement of Regulations on firearms

There was overwhelming presence of firearms in and around the polling stations by security personnel due to perceived election violence. Though the presence of firearms at the polling units enhanced security and more effective management of conflict, this regulation, especially the regulation which prohibits security personnel or incumbents from coming to the polling units with armed escorts, should be enforced as these could be easily abused.

IV. Timely prosecution of election rule offenders

Early and open trial of suspected violators of election regulations arrested in the Kogi Gov election will help check security breaches and enhanced credibility of the role of the security agencies at elections. It is particularly important that the security agencies are seen as having made some progress in arresting the masterminds, of any election violence to restore confidence in the electoral process.

V. Post-election reviews

Security agencies should embark on post-election review of security after each election with inputs from political parties, independent observers, INEC Monitors, religious leaders and the mass media.

VI. Early warning system

The CLEEN Foundation report on flashpoints during the Kogi Gov Election helped security personnel and stakeholders to put measures in place which resulted in peaceful conduct of the Kogi election. Whereas the report came out too close to the election, an earlier warning could improve planning for security by stakeholders. The unfortunate incidents of post-election violent conflict call for the strengthening of the early warning system. Security agencies need to improve on intelligence gathering.

VII. Special protection of election observers

The leadership of security agencies involved in the elections should take appropriate steps to provide security for election observers and discipline security officials involved in the violating the rights of election observers.

VIII. Payment of entitlement of security officials

Authorities of security agencies should ensure that funds allocated for transportation and feeding allowances of security officials are disbursed before election day to enhance morale of the officials and promote integrity of the electoral process.

Chapter Eleven



Report on the Monitoring of the Edo State Governorship Election July 14, 2012.

1.0 BACKGROUND OF THE PROJECT

The 2012 Edo Election security project was aimed at strengthening the capacity of election security personnel and monitors for successful electoral duties thereby helping to deepen our democracy through credible 2012 Edo Governorship elections. This intervention also aimed at consolidating the gains recorded by the National Human Rights Commission and the UNDP in monitoring of the conduct of election security personnel at the 2007 and 2011 general elections as well as the Dec 2011 Kogi State Governorship election.

2.0 OBJECTIVES:

The overall objectives of the project are to:

- i) Improve the capacity of the Nigerian Police force and other security agencies to provide election security during the 2012 Edo State Governorship elections process and beyond.
- ii) Consolidate the gains, address the challenges and implement lessons learnt from monitoring the conduct of election security personnel at the 2007 and 2011 general elections and other previous elections.
- iii) Mainstream human Rights and gender considerations into election security in Nigeria.

- iv) Assess the security situation on ground before the elections to guide stakeholders in planning and management of election security for Edo Governorship election 2012

The specific objectives of the project are to;

- i) Equip the Nigerian Police Force and other law enforcement agents involved in election duties with the general understanding of the electoral process, electoral offences and punishments.
- ii) Enhance the capacity of election security personnel to provide election security
- iii) Increase awareness and application of gender and human rights based approaches and considerations by police and other security agencies in managing election issues and related violence.
- iv) Consolidate the awareness and consciousness in election security personnel that their conduct is monitored.
- v) Sensitize stakeholders and election security authorities on the security situation before the elections and on the need for the impartial conduct of security personnel during elections.
- vi) Gather data / information on the conduct of security personnel during the Edo 2012 elections with a view to documenting and reporting such conducts.

3.0 EXPECTED OUTCOME:

- i) Security personnel trained to manage election related violence, disputes and issues in an impartial manner.
- ii) Pre –Election security situation assessed and used in planning and management of election security by stakeholders during Edo Governorship elections 2012.
- iii) Human rights and gender based approaches mainstreamed into election security management.

Stakeholders sensitized on the need for impartial conduct of security personnel during elections

iv) Data / information gathered on conduct of security personnel on election duties

4.0 METHODOLOGY

A. Edo State Governorship Election July 14, 2012:

i) Pre-election Security situation assessment.

Considering the security situation in Edo state, a three man team will be sent to Edo for three days from Wednesday 4th July to Friday 6th July to make a pre election security situation assessment. Each will go round one of the senatorial zones and assess the political situation on ground after interacting with stakeholders on one to one basis. A statement will be made early in the week of the pre-election security situation in Edo state to guide INEC, Security agencies and stakeholders during the Edo Governorship Elections on 14th July 2012. The Costs implications have been captured in the security training pre-workshop logistics totalling **N374,400**.

ii) Training of security personnel.

There are 18 local government areas (LGAs) in Edo State and we plan to train 44 security personnel (DPOs) state-wide on TOT basis with IEC materials to quicken the step down training process due to shortage of time. The resource persons and materials used under the LOA for previous elections will be deployed for this activity. There will be one training for 44 security personnel from Edo state on TOT basis on the 10th July, 2012. All the IEC materials used under the LOA will be reproduced at same costs. UNDP will pay the vendors directly and NHRC will certify supply of materials before such payments are made.

The security personnel will be pooled from various security agencies in Edo as per the ratio under the LOA is Police -50% Civil Defence Corps- 30% Others (Military, FRSC, Immigration, prisons, Customs etc)-20%

The total cost for training 44 security personnel is estimated at the sum of **N3,919,472.18**

iii) Deployment of election security Monitors.

We propose to deploy 13 monitors per LGA totalling 234. This is higher than ondo in view of the existing heightened security situation in Edo. The election security monitors are made up of CSOs and staff of the commission who were already trained in April 2011 general elections. They do not need another training now but there will be need to supply them with checklists, handbooks and posters as in the April 2011 election to achieve similar level of efficiency and effectiveness. Each monitor is to cover at least 10 polling stations on election day. A total of 234 election security monitors will be deployed in Edo state for 2 nights. 18 LGA team leaders will stay for 3 nights to cover collation of election results at LGA level. While the overall state and assistant state team leaders will stay 5 nights to cover pre-election day activities and collation and announcement of results at the state level. The estimated cost of field deployment is **N23,144,960.00**

iv) Production of IEC materials for training and field work

a) Training manual for security personnel.

In view of the 44 security personnel to be trained, we propose to reprint 44 copies of the training manual for security personnel at the cost of N 300 as under the previous LOA.

The total sum for this activity is **N13,200.**

b) Handbook for security personnel.

There are 2627 polling stations in Edo state that will be covered by a minimum of 3 security personnel during the elections. The total number of security personnel to be deployed on election duty is therefore estimated at 2627×3 totalling 7881. We propose that 7,900 copies of the handbook be reproduced at the former costs under the LOA ie at N120 per copy totalling the sum of **N948,000**.

c) Posters for security personnel and Monitors

There will be 1(one) poster per polling unit per security personnel ie 2627×3 totalling 7881.

Considering the time constraint and peculiar nature of languages in Edo state, there will be no possibility of translating the posters into the local languages. All the posters produced will be in English language.

The total of 7900 posters at the former LOA cost of N100 each will be reproduced totalling the sum of **N790,00**.

d) Handbook for election security Monitors.

234 election security monitors will be deployed and each will be given a handbook. we propose to reproduce 260 handbooks at the LOA cost of N200 each totalling the sum of **N52,000**.

e) Checklists for election security Monitors for fieldwork

234 monitors will be deployed at the rate of 13 per LGA. Each of the 234 will be given 10 checklists to cover 10 polling stations in the LGA on election day totalling 2340 checklists. It is proposed to reproduce 2,550 checklists at the LOA cost of N120 per copy totalling the sum of **N306,000**.

f) Reflective Jackets.

All the monitors have been involved in previous election exercises and will be expected to use their reflective jackets. So new ones will not be produced for Edo state governorship election 2012.

- v)** The total cost of activities slated for the Edo State Governorship election is **N30,206,632.18**

TIMELINES FOR EDO GOVERNORSHIP ELECTION.

Timelines for the implementation of Extended LOA on Edo Governorship election security project is as follows.

- | | |
|---|--------------------|
| i) Signing of extended LOA for implementation of Activities for Edo State Governorship Election | -Mon Jul 2, 2012. |
| ii) Pre election security assessment
Team arrives Edo | -Thur Jul 5, 2012. |
| iii) Supply of reprinted IEC Materials | -Mon Jul 9, 2012 |
| iv) Statement on pre election security
Assessment on Edo State. | -Tue Jul 10, 2012. |
| v) TOT for security personnel in Edo state | -Tue Jul 10, 2012. |
| vi) Deployment of monitors | -Wed Jul 11, 2012 |
| vii) Arrival of monitors in Benin and
proceeding to LGA | -Fri Jul 13, 2012. |
| viii) Monitoring of election security
personnel at Edo Guber elections | -Sat Jul 14, 2012. |
| ix) Return of election security monitors to
Abuja | -Sun Jul 15, 2012. |
| x) Return of team leaders at LGA level | -Tue Jul 16, 2012. |
| xi) Return of state team leader after
declaration of state result | -Wed Jul 18, 2012. |
| xii) Strategic briefing on Edo election | -Thur Jul 19, 2012 |

xiii) Submission of narrative and financial report of Edo state election security project

-Mon Aug 13, 2012.

5.0 PROJECT ACCOMPLISHMENTS

The activities carried out for the July 14, 2012 Edo State Governorship election were as follows:

a) **Pre-Election security Assessment.**

The commission carried out pre-election security assessment of Edo state from Thursday 5th July to Tuesday 10th July, 2012. The assessment confirmed deep rooted rivalry amongst the political parties and the tendency for election violence at the usual hotspots in Edo State. The influence of the traditional institution, the God Father syndrome, suspicion of partiality on the part of INEC, all contributed to heighten the security tension in Edo State. The Commission therefore recommended the beefing up of security in all polling stations and the identified hotspots to forestall election violence. It also recommended sensitisation of stakeholders on the rules of engagement of the over 3500 military personnel drafted to perform election duties in 2012 Edo state elections. In response to this call, the Governor of the State in an NTA televised broadcast on Thursday explained the overwhelming military presence in the state and that they were in Edo to help voters realise a peaceful exercise of their right to vote. This helped to calm the tension and suspicion that the military was in Edo to help one of the candidates who was former military personnel to win the elections.

b) **Training of security personnel.**

It was proposed to train 50% police, NSCDC 30% and FRSC 20% (a total of 40 security personnel and 4 resource persons

totalling 44) on TOT basis from the 18 LGA'S in Edo state. Due to the late signing of the LOA, this activity was not carried out. However, NHRC still supported the security personnel with posters and handbooks which were distributed for use to security personnel in the 18 LGAs of Edo State. The said IEC materials were visibly displayed in most of the polling stations visited in all the 18 LGAs of the state.

c) Deployment of election security Monitors.

A total of 234 election security monitors were deployed in Edo state. This included 13 election security monitors per local government for 2 nights, 18 LGA team leaders for 3 nights who covered collation of election results at LGA level as well as 1(one) overall state team leader for 5 nights who covered pre election IEC and other election materials distribution as well after election collation and announcement of results at the state level.

d) Production of IEC materials for training and field work.

It is to be noted that the IEC materials had already been produced before the proposed training for security personnel was suspended. However NHRC made effort to put the materials already proposed to use to mitigate the consequences of the suspension of the training for security personnel for the 2012 Edo state governorship election.

i. Training manual for security personnel.

With the 40 security personnel proposed to be trained and the 4 consultants proposed to handle the training, a total of 44 manuals were produced. Since the said IEC materials were updated and reviewed specifically for Edo state Governorship election, it was thought wise by the NHRC to distribute the said copies to the

In Edo state, Due was not carried out. The personnel with no training were used for use to conduct the election. The said IEC used the polling stations

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various security commands in the 18 LGAs of EDO State to serve as reference material for improving the capacity of the various commands of the security agencies to prepare for election security. The various commands were happy to receive these materials and acknowledged their receipt.

- ii. Handbook for security personnel.

2,627 polling stations in Edo state were to be covered by a minimum of 3 security personnel during the elections. The total of 7,900 handbooks for security personnel were deposited at the Edo state Command of the Police, NSCDC and FRSC at the ratio of 50:30:20 % respectively for distribution to all security personnel deployed for the election. Security officers were seen in the field making reference to their handbooks to familiarise themselves with the contents.

- iii. Posters for security personnel and Monitors

Each LGA Command of security agencies was given posters for distribution to security personnel on election duty at the rate of 1(one) poster per polling station totalling 2,627 posters. 30 additional posters per LGA was distributed to the security agencies for display at their offices and police stations totalling 540 posters. Each election monitor was given 20 (twenty) posters to cover ten polling stations totalling 234 x 20 ie 4680 posters.

Considering the time constraint and peculiar nature of languages in Edo state, all the posters produced were in English language.

The total of 7,847 out of the 7900 posters produced was deployed in the field and these were seen displayed at the polling stations and police stations in Edo state during the elections.

iv. **Handbook for election security Monitors.**

Each of the 234 election security monitors deployed was given a handbook and they were seen in the field making reference to the handbooks. They appreciated the handbooks which constituted a quick reference point for them during the elections.

v. **Checklists for election security Monitors for fieldwork**

Each of the 234 monitors deployed was given 10 checklists to cover 10 polling stations in the LGA on Election Day totalling 2340 checklists. About 2028 checklists were completed and returned. Difficult and inaccessible terrain in some parts of Edo state affected the non completion of about 312 checklists by the monitors.

vi. **Reflective Jackets.**

Reflective jackets were not produced for this exercise because 95% of the monitors had participated in previous election security monitoring exercises. These monitors used their former reflective jackets. The few who did not have were supplied reflective jackets from the former election left over's in the Commission's store. Each election security Monitors wore one reflective jacket during the exercise. The monitors stated that the reflective jackets helped them to stand out in the field as monitors and they got quick answers from the security personnel and other stakeholders to carry out their assignment in the field.

e) **Report writing**

The compilation of the election report was carried out with the combined effort of consultants, data processing analysts, LGA team leaders and state team leader. The findings from the field work are summarised in the later part of this report.

f) Strategic briefing of stakeholders.

The strategic briefing of stakeholders is aimed at enlightening them on the outcome of the exercise and to acknowledge the support of the UNDP and Joint Donor basket as well as the contributions of NHRC and CSOs to the success of the project. The outcome of the election, which was free and fair, showed improved performance on the part of the security personnel as confirmed by other stakeholders after the election. The briefing will also outline the achievements of the project with the support of UNDP and the joint Donor Basket.

g) Modalities For Project Implementation

All funds were to be transferred to the NHRC for project implementation. 60% of the funds were transferred upon the signing of the LOA while the balance of 40% will be transferred after the submission of the project narrative report.

h) Timelines for the implementation of the project.

The timelines for the implementation of the critical aspects of the project were kept irrespective of the late signing of the LOA. Despite the suspension of the training of security personnel due to time constraints, the IEC materials already produced were adequately deployed in the field to mitigate the consequences of the suspension of the election security training.

FINDINGS AND RECOMMENDATIONS ON THE MONITORING OF ELECTION SECURITY PERSONNEL AT THE EDO STATE GOVERNORSHIP ELECTIONS JULY 14, 2012.

i) Punctuality

Observation reports indicated that security officials arrived 48% of the polling units before 8.00am when polling was supposed to commence while 36% arrived between 8 and 9 am, 15% of the security personnel arrived after 9 am. This result shows a drop in the consistency level of punctuality recorded in the April 2011 general elections and Dec 2011 Kogi elections where

about 65% and 60% reported before 8am while 35% and 34% respectively reported between 8 and 9am. Security officials were also reported to have remained in the polling units until the end of the voting exercise in most polling units. Only in 15% polling units did security officials leave the polling units during the elections. While this represents some improvement on the April 2011 elections in which observers reported that security officials left 27% of polling units during the election, it fell short of the efficiency level of 7% achieved in Dec. 2011 Kogi elections. Whereas the improvement in continuous manning of the polling stations can be attributed to the presence of food and drink vendors at polling units, the drop in punctuality from the Kogi Election can be attributed to overall logistic problems which affected the early commencement of polls during the Election.

Like in the previous election, observers reported that most polling units (85% as against 78% in Kogi) were manned by security officials throughout the duration of the polls. This shows an improvement in the level of responsibility of security personnel who have imbibed the skill not to all leave the polling station at the same time for usual human needs of feeding and easing themselves. They rotated themselves as recommended.

ii) Deployment

Generally, 3 or more security officials were deployed to 54% (as against 26% in Kogi Election and 38% April 2011 Governorship elections) of polling units and 33% (as against 38% in Kogi Election and 37% April, 2011 Governorship elections) of polling unit had at least 2 security officials. 11% of the polling units had 1(one) security personnel (as against 27% in Kogi Election and 2% (as against 1% in both Kogi Election and April 2011 Governorship elections) of the polling stations had no security

personnel. Findings show these were in the very remote villages where due to the difficult terrain or other logistic reasons, it was difficult for security personnel posted (and even electoral personnel and some monitors) to access. It is therefore obvious that the security arrangements were beefed up for the Edo Elections. This was in response to the general security concerns expressed by NHRC, CLEEN and other stakeholders in respect of the 2012 Edo Governorship elections. Consequently, 62% (as against 55% in Kogi Election and 57% April 2011 Governorship elections) of polling units were deemed to have 'adequate' security while another 22% (as against 13% in Kogi Election and 25% April 2011 Governorship elections) were said to have 'very adequate' security.

The security officials were easily identifiable in 87% (as against 76% in Kogi Election and 82% April 2011 Governorship elections) of polling units with nametags. Like the Dec 2011 Kogi governorship and April 2011 general elections, reports from observers showed that all the polling stations in the city centers had adequate security personnel while some polling stations in the suburbs and hinterland had fewer and in a few cases, no security personnel deployed to them. It can therefore be presumed that the polling stations with one or no security personnel were predominantly located in the suburbs and hinterland.

iii) **Conduct of the security officials at the polls**

Observers reported that the conduct of security officials was in most cases satisfactory, consistent with observations in the Dec 2011 Kogi and April 2011 general Elections. Most of the polling units were recorded to have security officials whose overall conduct was rated to be 'good' (74%) (as against 64% in Kogi Election and 70% April 2011 Governorship elections) and 'very good' (8%) as against (6%) in Kogi and 4% in April 2011

elections. The friendly disposition of security officials was noticeable in most of the polling units with observers recording that they found the security officials 'approachable' (62%) as against (64%) in Kogi and (70%) in April 2011 general elections. 32% was analysed as very approachable, as against (28%) in Kogi and (22%) in April 2011 elections. This disposition of security personnel can be attributed to sustained sensitisation and training of security personnel deployed on electoral duties for elections by the National Human Rights Commission and the UNDP (2007-2011) as well as DFID and CLEEN Foundation in 2012 Edo Elections. 75% (as against 16% in Kogi) of polling units recorded security officials who were considered to have been 'impartial' and 21% (as against 74% in Kogi) 'very impartial' during the polls. 2% were somewhat impartial while 2% was deemed as partial by the observers (as against 2% in Kogi and 4% in April 2011 elections) However, there was significant variance in perception of partiality or otherwise of security officials across the state. Of interest is the high level of very impartial election security personnel during the Edo Election. This was attributable to the fact that most of the security personnel had been sensitised that they were being monitored by the NHRC and UNDP as most of them interviewed were conscious of this fact. Another contributory factor was the fact that most of them were pooled from other states to Edo state for the election duties. Thirdly, the sustained training of the election security personnel involved in elections since 2003 seems to be crystallizing.

In most of the polling units (70%) (as against (66%) in Kogi Elections and 78% in April 2011 elections), security officials were reported to have followed instructions of presiding officials during the elections. This percentage is slightly lower than the

ready disposition of security officials with the polling units with observers recording security officials 'approachable' (62% in April 2011 general elections and (70%) in April 2011 general elections. This disposition was very approachable, as against (28%) in April 2011 elections. This disposition can be attributed to sustained sensitisation of security personnel deployed on electoral duties by the National Human Rights Commission (NHRC) as well as DFID and CLEEN in 2011) as against 10% in April 2011 Edo Elections. 75% (as against 10% in April 2011 elections) recorded security officials who were deemed 'impartial' and 21% (as against 7% in April 2011 elections) were deemed as partial by the observers during the polls. 2% were deemed as partial by the observers in April 2011 elections. However, there was a variance in perception of partiality of security officials across the state. Of interest is that security personnel during the April 2011 election security personnel during the April 2011 elections was attributable to the fact that most of them had been sensitised that they were impartial by the NHRC and UNDP as most of them were aware of this fact. Another contribution to this was that most of them were pooled from other states to perform election duties. Thirdly, the sustained sensitisation of security personnel involved in election duties was crystallizing.

security officials (70%) (as against (68%) in April 2011 elections), security officials followed instructions of presiding officers. The percentage is slightly lower than the

compliance rate (78%) recorded at the April Elections. This follows the trend of the April elections and is a remarkable improvement on the compliance level at the Dec 2011 Kogi elections.

iv) Safety and security of the polling units

Safety of polling units was one of the major areas of concern before the commencement of the July 14, 2012 Edo State Governorship elections. The CLEEN Foundation and the NHRC had reported heightened tension amongst stakeholders following extrajudicial killings, deep and violent political rivalry in Edo state. This must have influenced the security arrangements which were beefed up all over the state resulting in a relatively violent free election in Edo state as stated by most stakeholders after the election. Voters were perceived to have felt safe and secured in most of the polling units 64% (as against 66%) in Kogi) while 23% of the polling stations were considered very safe and secure just as in Kogi. 0% of polling units was considered 'not safe and secure at all'. Again, observers noted that the presence of voters at the polling units throughout the duration of the polls engendered a greater sense of security even for the INEC officials who could easily be overpowered by hoodlums and party agents if left alone after voting. It was outstanding that the elite in Edo were part of the voters and waited patiently to be accredited and indeed cast their votes.

The perceived improvement in sense of security of polling units is also evidenced by the fact that only 4% of polling units, (as against 5% in Kogi and 10% reported in the April Governorship elections) witnessed incidents considered as threats to security. Security officials were also credited to have handled the threats in a commendable manner with only 2% force used

in overall case. In 83% as against 71% in Kogi, observers considered there was no threat in any of the polling stations. The minimal use of force at the polls stemmed from the high rate of compliance of security officials with election guidelines on firearms at polling units following continuous and sustained training by stakeholders on human rights standards expected of security personnel on election duties.

v) Security to collation centres

Reports from observers showed that there was improvement in provision of security to the collation centres. Furthermore, the security officials were reported to have accompanied polling officers and election materials to collation centres from 48% of polling units, an increase from the 46% in Kogi elections and a drop from 54% recorded in the April Governorship elections. This anomaly is consistent with the general logistics problems that affected the conduct of Edo Governorship elections on July 14, 2012. Again, the security of election materials and personnel to polling stations and collation centres remained the weakest link during the Edo State Governorship elections.

vi) Welfare of security officials

Adequate provision for welfare of security officials is imperative for the conduct of free and fair elections as it will likely insulate security officials from corruptible offers of politicians. Observers did not note any complaints of security officials on the non-payment of their allowances before the Election Day neither were there complaints about non provision of dry ration or communication equipment. Most of them used their own telephones to communicate, though they were not given recharge cards to facilitate their assignment. There were food vendors all over the polling stations and food was seen being distributed by politicians to both security personnel and INEC officials. It is interesting to note that this did not substantially affect the impartiality of the security personnel or INEC officials.

83% as against 71% in Kogi, observers saw no threat in any of the polling stations. Force at the polls stemmed from the high rate security officials with election guidelines on units following continuous and sustained orders on human rights standards expected on election duties.

Collation centres

Observers showed that there was improvement in access to the collation centres. Furthermore, the observers reported to have accompanied polling agents with materials to collation centres from 49% of the stations in the April Governorship elections to 65% in the July Edo Governorship elections and a decrease from the 46% in Kogi elections and a decrease from the 46% in Kogi elections and a decrease from the 46% in Kogi elections. Consistent with the general logistics problems experienced in the April Governorship elections, the security of election materials and the stations and collation centres remained the same in the Edo State Governorship elections.

Security officials

The welfare of security officials is imperative for free and fair elections as it will likely insulate them from corruptible offers of politicians. Observers received complaints of security officials on the non-provision of allowances before the Election Day neither for the security officials nor for the observers. Complaints about non provision of dry ration or equipment. Most of them used their own vehicles to communicate, though they were not given facilities to facilitate their assignment. There were food shortages at the polling stations and food was seen being distributed to both security personnel and INEC officials. It is interesting to note that this did not substantially affect the security personnel or INEC officials.

Even some of the observers were offered food and drinks but these gestures were politely rejected.

7.0 PROJECT CHALLENGES AND LESSONS LEARNT:

A. CHALLENGES

Some challenges were encountered during the project implementation. Some of the challenges encountered include the following:

- i) The late signing of the LOA resulted in the suspension of the training of security personnel as the remaining time to step down security training before the elections was insufficient. The Commission mitigated this challenge by ensuring adequate distribution of produced IEC materials to all local government headquarters of the police, NSCDC and the FRSC.
- ii) Full payment of participants at each stage of project execution was delayed as a result of the late signing of the LOA and late disbursement of project funds.
- iii) There was short time to contact partners and participants. Mobilization of the targeted Observers/ Security agencies and nomination of participants by individual CSOs and agencies needed enough time to be put in place. The Commission set up an inter-agency implementation Committee and through the work of this Committee, time to get input from partner organizations was reduced. Eventually the training for security personnel was suspended due to late release of project funds.
- iv) Restriction on vehicular movement on the Election day made it difficult for monitors to hire vehicles for easy movement to polling and collation centres. The operators of few available vehicles charged exorbitant fares making the financial provision made for transportation to be grossly inadequate. To overcome this challenge, monitors had to use Keke NAPEP and motor bikes to ease transportation on the Election day.

- v) In the past, the Commission used to apply to INEC accreditation to monitor elections. However with the passage into law of NHRC Amendment Act 2010, the Commission is now an independent Commission with full autonomy and independence to carry out its mandate to protect and promote the right of Nigerians including their right to vote without fear of harm by security personnel. Whereas INEC requires organisations participating as observers to get accreditation from the Commission in exercise of its new mandate felt obliged to inform INEC of its intention to monitor security agencies involved in the election and not necessary to get INEC approval to discharge its mandate. When the Commission informed INEC of its intention to carry out its mandate, INEC mistook this as a late application for accreditation. The Commission is already taking steps in dialogue with INEC to clarify the position of the Commission and to avoid misunderstanding in future elections.
- vi) Limited funds meant that observers travelled to their duty post only one day to the election. This made it difficult for observers to meet and strategize on how to carry out their assignments earlier than the night before the election. The telephone contact distributed to the monitors helped them to network where it was difficult to meet formally before the election.
- vii) Difficult terrain in some parts of Edo state especially the riverine areas meant that the observers could not effectively cover such areas.

B. LESSONS LEARNT:

- There is need for early signing of the LOA to facilitate early arrangements for the smooth implementation of projects. Adequate and early training for security personnel, election security observers and INEC officials is essential for orderly and successful conduct of elections.

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- Provision of food and drink for security personnel and Electoral Officers, will ensure that they remain on their duty posts throughout the period of election.
- The presence of election security observers at polling centres, acts as a passive restraint on security personnel and election officials in the conduct of their duties.
- Partnership with the media at all stages of the project greatly enhanced the effectiveness of the monitoring exercise as project activities were adequately publicized.
- Considering the hazardous nature of election assignments, hazard allowance should be paid and more generous provisions should be made in future for election observation to attract participants and election security observers.

8.0 GENERAL RECOMMENDATIONS

The 2012 Edo Governorship election has generally and rightly been adjudged to be substantially free, fair and credible. However, election observation conducted by the National Human Rights Commission revealed a number of lessons especially in the conduct of security officials that need to be addressed to guarantee the success of the future elections.

1. Timely delivery and retrieval of election materials.

The major challenge on the election day of July 14 was late delivery of election materials and late commencement of polls in several local governments in Edo State. The inability of INEC to perfect its logistic arrangements despite several experiences on elections remains surprising. After the elections, several Presiding officers were seen waiting to be evacuated to collation centres. It may be advisable to engage persons with vehicles or money provided to Presiding officers to hire their own vehicles while security is provided for the transportation and retrieval of election materials on Election Day. This can help reduce delays and other logistic problems that increase tension and suspicions of plans to rig the polls.

II. Security reinforcement during movement to collation centres and polling stations.

As indicated earlier in this report, this has remained the weakest links in the elections from 2011 till date. If this trend continues, it can be exploited by politicians and mischief makers to mar future elections. The possibility of snatching of election materials or ballot boxes during the movement to distribution/collation centres suggests the need for reinforcement by armed escorts during transport of materials/results to distribution/collation centres.

III. Enforcement of Regulations on firearms

About 3500 military personnel in addition to security personnel from the Police, NSCDC and the FRSC were deployed for the Edo Election. There was overwhelming presence of firearms in and around the polling stations by security personnel due to perceived election violence. Though the presence of firearms at the polling units enhanced security and more effective management of conflict, this regulation, especially the regulation which prohibits security personnel or incumbents from coming to the polling units with armed escorts, should be enforced as these could be easily abused. Being an aberration during elections, the rules of engagement of future military personnel should be explained in advance to the voters. The late address by the governor of Edo State a day before the elections helped to douse the apprehension created by the overwhelming presence of military personnel in Edo State during the elections.

IV. Timely prosecution of election rule offenders

Early and open trial of suspected violators of election regulations arrested in the Edo Gov election will help check security breaches and enhanced credibility of the role of the security agencies at elections. It is particularly important that the security agencies are seen as having made some progress in arresting the masterminds, of any pre or post election violence in Edo to restore confidence in the electoral process.

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V. Post-election reviews

Security agencies should embark on post-election review of security after each election with inputs from political parties, independent observers, NHRC, INEC Monitors, religious leaders and the mass media.

VI. Early warning system

The NHRC and CLEEN Foundation reports on flashpoints during the Edo Gov Election helped security personnel and stakeholders to put measures in place which resulted in peaceful conduct of the Edo election. Whereas the reports came out too close to the election, an earlier warning could further improve planning for security by stakeholders. The unfortunate incidents of extrajudicial killings and pre-election violent conflicts in Edo call for the strengthening of the early warning system and more involvement of stakeholders in pre-election security assessment. Security agencies also need to improve on intelligence gathering to complement the efforts of stakeholders on pre-election security assessments.

VII. Special protection of election observers

Some of the military personnel on election duty prevented the free movement of some observers on election duty. The leadership of security agencies involved in the elections should take appropriate steps to provide security for election observers and discipline security officials involved in the violating the rights of election observers to carry out their election duties.

VIII. Payment of entitlement of security officials.

Security of the electoral process is paramount to a free and fair election. Authorities of security agencies should ensure that funds allocated for transportation and feeding allowances of security officials are disbursed before Election Day to enhance the morale of the officials and promote the integrity of the electoral process.

x.) Provision of communication equipments

In these days of modern communication technology, modern communication facilities should be provided for all election security

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The NHRC and CLEEN Foundation reports on flashpoints during the Edo Gov Election helped security personnel and stakeholders to put measures in place which resulted in peaceful conduct of the Edo election. Whereas the reports came out too close to the election, an earlier warning could further improve planning for security by stakeholders. The unfortunate incidents of extrajudicial killings and pre-election violent conflicts in Edo call for the strengthening of the early warning system and more involvement of stakeholders in pre-election security assessment. Security agencies also need to improve on intelligence gathering to complement the efforts of stakeholders on pre-election security assessments.

VII. Special protection of election observers

Some of the military personnel on election duty prevented the free movement of some observers on election duty. The leadership of security agencies involved in the elections should take appropriate steps to provide security for election observers and discipline security officials involved in the violating the rights of election observers to carry out their election duties.

VIII. Payment of entitlement of security officials.

Security of the electoral process is paramount to a free and fair election. Authorities of security agencies should ensure that funds allocated for transportation and feeding allowances of security officials are disbursed before Election Day to enhance the morale of the officials and promote the integrity of the electoral process.

x.) Provision of communication equipments

In these days of modern communication technology, modern communication facilities should be provided for all election security

personnel to forestall any violence and ease communication during the elections. Where this is not possible, election security personnel should be provided with communication allowances to use their personal phones.

9.0 PROJECT RECOMMENDATIONS:

i) Government

- The military and the State Security Services (SSS) should be included among the participating agencies in future collaborations and training for election security personnel.

ii) Development Partners

- There should be early approval of the projects for timely execution.
- Early release of funds by the UNDP is highly encouraged to enable the implementation agency to have a suitable payment plan that would not cause problems in the implementation of the project.
- Monitors should not be made to go through undue hardship due to poor travel allowance and other benefits. There should be full payment of DSA and travelling allowance to cover the travelling expenses.
- There should be an increase in the number of election security observers per state for adequate coverage and better results. For an election observer to do his work accurately, few polling units can only be covered to ensure proper reporting of the actual incidents at their polling units without relying on the information they got from the electorates or other observers in some cases. While some should be stationary observers, others should be roving observers to ensure better coverage of the election security project.
- Observers are exposed to a lot of risks especially pre and post election violence, there should be hazard allowance to

communication during the election process. Election personnel should be encouraged to use their personal

SSS) should be encouraged in future election processes to use their personal

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be encouraged to use their personal payment for the representation of the

the hardship due to the travelling should be full

election security to better results, few polling stations reporting of the relying on the observers in the observers, coverage of

large and post allowance to

ameliorate the stress the observers undergo in the process of carrying out election duties.

iii) Civil Society Organisations.

- In order to improve their skills at election security monitoring, CSOs should learn to specialize in the area of election security monitoring.

10. CONCLUSION.

The Commission is grateful for the sustained partnership between itself, the UNDP and the Joint Donor Basket Fund on election security project from 2007 and 2011 general elections to the 2011 Kogi and 2012 Edo, Governorship elections.

The election security project has been implemented with the collaboration of the Nigerian Police, the NSCDC, the FRSC, the NBA and the civil society. It cannot be overemphasised that without the cooperation of all, the several election security projects would not have been successful.

While appreciating our existing partnership, we look forward to more areas of collaboration in the very near future.

Chapter Twelve *12*

Report on the Monitoring of the Conduct of Security Officials in the 2012 Ondo State Governorship Elections, 20th October 2012.

1.0 Background

In the past, Nigeria had a history of controversial elections. Security is a very important factor in the challenge of conducting free and fair elections. The capacity and willingness of security agencies to provide adequate security in a non-partisan and impartial manner contributes immensely to the credibility of elections. The concern over the role of security agencies had arisen from fears of partisanship of security agencies during elections and widespread incidents of electoral violence in the past. Security agencies were not only unable to prevent and curb electoral violence but were actually alleged to be perpetrators of violence directed at lawful participants in the electoral process. In many cases, post-election crises and violence have been linked to public perception that incumbents manipulate the security agencies to serve their interest of retaining power at all costs. In contexts where security is guaranteed, politicians are most likely to abide and play by the rules of the game. Equally important is that the perception of the electorate on the state of security before, during and immediately after elections is a strong determinant of voter behaviour. If voters are assured that there is adequate security, there is likely to be high voter turnout all things being equal. Contrariwise, fear of outbreak of electoral violence or breach of security is more likely to scare the voters away from the polling centres.

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The need to observe the conduct of security agencies in these 2012 governorship elections is underscored by the fact that these were crucial elections. This is for more than one reason. First, these were elections that promised to be the litmus test for the consolidation of the electoral reform initiative of free and fair elections by the Jonathan administration with Jega at the headship of Independent National Electoral Commission (INEC). Second, the controversy over assassinations and campaigns of calumny before these elections over heightened tension during preparations for Edo and Ondo elections. Ondo in particular has a history of electoral violence since the first republic. Both Edo and Ondo had been lost by the People's Democratic Party (PDP) which is the party at the center. There was a feeling it will be difficult for the party to allow a level playing field for free and fair elections in Edo and Ondo. Thirdly, the Commission had monitored the conduct of security personnel from 2007 to 2011 general elections as well as the Kogi State governorship elections Dec, 2011 and Edo election 2012. There is need to consolidate the gains and lessons learnt from the election security project of the UNDP and the NHRC.

It is against this background that the United Nations Development Programme (UNDP) collaborated with the National Human Rights Commission (NHRC) to observe the 2012 Ondo and Edo states Governorship elections. The Edo State Governorship election had been held in July 2012 and has been reported on. This report will dwell on the Ondo State governorship election held on 20th Oct, 2012.

2.0 THE NHRC UNDP ELECTION SECURITY PROJECT FOR 2012 ONDO GOVERNORSHIP ELECTION.

The 2012 Ondo Election security project was aimed at strengthening the capacity of election security personnel and monitors for successful electoral duties thereby helping to deepen our democracy through credible 2012 Ondo Governorship elections. This intervention also aimed at consolidating the gains recorded by the National Human

Rights Commission and the UNDP in monitoring the conduct of election security personnel at the 2007 and 2011 general elections as well as the Dec 2011 Kogi and July 2012 Edo, States Governorship elections.

2.1 OBJECTIVES:

2.1.1 The overall objectives of the project are to:

- i) Improve the capacity of the Nigerian Police force and other security agencies to provide election security during the 2012 Ondo State Governorship elections process and beyond.
- ii) Consolidate the gains, address the challenges and implement lessons learnt from monitoring the conduct of election security personnel at the 2007 and 2011 general elections and other previous elections.
- iii) Mainstream human Rights and gender considerations into election security in Nigeria.
- iv) Assess the security situation on ground before the elections to guide stakeholders in planning and management of election security for Ondo Governorship election 2012

2.2 The specific objectives of the project are to:

- i) Equip the Nigerian Police Force and other law enforcement agents involved in election duties with the general understanding of the electoral process, electoral offences and punishments.
- ii) Enhance the capacity of election security personnel to provide election security.
- iii) Enhance the capacity of election security monitors to monitor election security during 2012 Ondo elections.
- iv) Increase awareness and application of gender and human rights based approaches and considerations by police and other security agencies in managing election issues and related violence.

the UNDP in monitoring the conduct of election security during the 2007 and 2011 general elections as well as the 2012 Edo, States Governorship elections.

Objectives of the project are to:

Capacity of the Nigerian Police force and other law enforcement agencies to provide election security during the 2012 Governorship elections process and beyond. To assess, address the challenges and implement measures for monitoring the conduct of election security during the 2007 and 2011 general elections and other elections. Mainstream Rights and gender considerations into election security in Nigeria. Assess the security situation on ground before the elections to inform decision making in planning and management of election security for Governorship election 2012

Objectives of the project are to:

Build the capacity of Police Force and other law enforcement agencies to perform election duties with the general public. Assess the electoral process, electoral offences and

Capacity of election security personnel to provide

Capacity of election security monitors to monitor election security during 2012 Ondo elections.

Assess and application of gender and human rights approaches and considerations by police and other agencies in managing election issues and related

- v) Consolidate the awareness and consciousness in election security personnel that their conduct is monitored.
- vi) Sensitize stakeholders and election security authorities on the security situation before the elections and on the need for the impartial conduct of security personnel during elections.
- vii) Gather data / information on the conduct of security personnel during the Ondo 2012 elections with a view to documenting and reporting such conducts.

2.3 EXPECTED OUTCOME:

- i) Security personnel trained to manage election related violence, disputes and issues in an impartial manner.
- ii) 198 Election security monitors trained to improve election security monitoring for 2012 Ondo elections.
- iii) Pre -Election security situation assessed and used in planning and management of election security by stakeholders during Ondo Governorship elections 2012.
- iv) Human rights and gender based approaches mainstreamed into election security management.
- v) Stakeholders sensitized on the need for impartial conduct of security personnel during elections
- vi) Data / information gathered on conduct of security personnel on election duties

3.0 ACTIVITIES, METHODOLOGY AND PROJECT ACCOMPLISHMENTS.

I. Pre-election Security situation assessment.

A six- man team (2 women and 4 men) was sent to Ondo State from 9th to 13th October to make a pre- election security situation assessment. Each group of two went round one of the three senatorial zones and assessed the security situation on ground after interacting with stakeholders on one to one basis. A statement was made by the Commission on Thursday 18 Oct

advising the Police, INEC, the SSS and stakeholders generally on the pre-election security situation in Ondo state to guide stakeholders during the Ondo Governorship Elections on 20th Oct. 2012.

Before embarking on the exercise, a pool of 20 NHRC staff (12 women and 8 men) was trained by consultants on pre-election security assessment skills. A guide was developed for field research and information gathering. Only six beneficiaries of the training were deployed for the pre-election security assessment due to the need to stretch project funds. The report and the subsequent press statement by the Commission have already been forwarded to the UNDP, INEC, SSS and NPF. The participating staff benefitted immensely from the training and this impacted on the quality of field research and report that followed the pre-election security assessment on Ondo election. There was a lot of improvement from the pre-election security assessment in Edo election as a result of the improved capacity of participating staff from the training under this project. The relatively non-violent Ondo governorship election can be said to have benefited from the pre-election security assessment analysis under this project. The Costs implication of this activity is the sum of N2,072,560 only.

ii. Training of election security monitors.

As a result of the restructuring of the project, the emphasis for training shifted to the election security monitors in order not to duplicate existing efforts on the training of security personnel by DFID and other stakeholders. A total of 198 (107 males and 91 females) monitors were deployed for the Ondo election security project and they were also trained under the project. They were divided into three groups for convenience of training. The Staff and csos from the southern states were trained in Benin, a total of about 51 (32 males and 18 females) participants. The second group of about 35 monitors (24 males and 11 females) from the

ence, INEC, the SSS and stakeholders generally election security situation in Ondo state to guide during the Ondo Governorship Elections on 20th

ing on the exercise, a pool of 20 NHRC staff (12 men) was trained by consultants on pre-election assessment skills. A guide was developed for field information gathering. Only six beneficiaries of were deployed for the pre-election security to the need to stretch project funds. The report subsequent press statement by the Commission have forwarded to the UNDP, INEC, SSS and NPF. The staff benefitted immensely from the training and on the quality of field research and report that pre-election security assessment on Ondo was a lot of improvement from the pre-election assessment in Edo election as a result of the improved participating staff from the training under this relatively non-violent Ondo governorship election have benefited from the pre-election security analysis under this project. The Costs implication the sum of **N2,072,560** only.

Deployment of election security monitors.

the restructuring of the project, the emphasis for to the election security monitors in order not to big efforts on the training of security personnel by stakeholders. A total of 198 (107 males and 91 females) were deployed for the Ondo election security monitors were also trained under the project. They were in five groups for convenience of training. The Staff from the southern states were trained in Benin, a total of 107 (54 males and 53 females) participants. The second group of 5 monitors (24 males and 11 females) from the

northern states were trained together in Abuja for security reasons. The largest group of about 113 (51 males and 62 females) from NHRC headquarters were broken into two streams and trained at NHRC Auditorium Abuja.

The training centred on the essence of the project, the guidelines for security personnel, the INEC election guidelines and electoral offences, the human rights issues in elections and the checklists for monitoring the election exercise etc. The training afforded by this project sharpened the monitoring skills of the participants and this has manifested in the improved cooperation between security agencies and monitors in the field during deployment as well as the quality of report from the field exercise.

Under the project, the total cost for training election security monitors for Ondo election is the sum of **N6,844,188.28**

iii. Deployment of election security Monitors.

The NHRC deployed 198 monitors (107 males and 91 females) during the Ondo State governorship elections. Monitors were recruited from among the Commission's staff, professionals and civil society activists all over the country, who were not members of political parties. The key monitoring instrument was a questionnaire (checklist) which monitors were expected to complete for each polling unit monitored. The questionnaires elicited responses on wide ranging issues such as the punctuality, effectiveness, impartiality and knowledge of security officials about their roles in the election.

Deployed monitors consisted of roving personnel across the polling units to observe conduct of election security personnel from the arrival of the voters to the counting of ballot papers and announcement of results. The monitors

also visited different offices of the Independent National Electoral Commission (INEC) in Ondo state. The roving monitors were expected to capture trends through on-the-spot assessments of different polling units and in particular collect information on the conduct of security personnel at those polling units. The drawback of this approach was the lack of attention to both INEC officials and the critical collation centres. However, the strategy enabled the NHRC to mitigate the challenges of deploying monitors to a representative sample of polling units.

A total of 1980 polling units out of 3009 were monitored in the Ondo State governorship elections. This is less than Edo where 2340 out of 2627 polling stations were monitored due to the spate of assassinations and threat to violence before the Edo elections. This incomplete sample of 1980 out of 3009 polling units in the state has implications for the generalizability of the findings of the monitors Mission. Nevertheless, the randomness adopted for selection of polling units and the deployment of monitors to all the local government areas of the state enhanced the representativeness of monitored polling units. Consequently, the conclusions of the monitoring report can be considered to provide a fair reflection of the conduct of security officials in the 2012 Ondo State Governors Elections.

Information collated were analysed with the aid of science statistical package and results were presented in the format of frequency and correlation tables. Results were generally presented according to checklists. Results of the findings for the election monitoring will be presented at a strategic briefing of stakeholders in a press conference.

different offices of the Independent National Commission (INEC) in Ondo state. The roving were expected to capture trends through on-the-streets of different polling units and in particular information on the conduct of security personnel at polling units. The drawback of this approach was the attention to both INEC officials and the critical centres. However, the strategy enabled the NHRC to address the challenges of deploying monitors to a representative sample of polling units.

980 polling units out of 3009 were monitored in Ondo State governorship elections. This is less than the 2340 out of 2627 polling stations were deployed due to the spate of assassinations and threat to life before the Edo elections. This incomplete sample out of 3009 polling units in the state has implications for the generalizability of the findings of the Commission. Nevertheless, the randomness adopted in the selection of polling units and the deployment of monitors in rural government areas of the state enhanced the representativeness of monitored polling units. Finally, the conclusions of the monitoring report can be considered to provide a fair reflection of the conduct of security officials in the 2012 Ondo State Governorship

elections. Data collated were analysed with the aid of social statistical package and results were presented in the form of frequency and correlation tables. Results were also presented according to checklists. Results of the election monitoring will be presented in a public briefing of stakeholders in a press conference

organized and addressed by representatives of NHRC and the UNDP. The strategic briefing will be given wide publicity in the media and circulated to critical stakeholders. This strategy is adopted to ensure that lessons learned are shared in order to enhance possibilities for addressing loopholes observed in future elections while catching the attention of stakeholders soon after the election before their attention changes to other national issues.

Each monitor covered at least 10 polling stations on Election day. A total of 198 election security monitors were deployed in Ondo state for 2 nights. 18 LGA team leaders were deployed to stay for 3 nights to cover collation of election results at LGA level. The overall state and assistant state team leaders stayed 5 nights to cover pre-election day activities and collation and announcement of results at the state level.

This final report provides a comprehensive analysis of all reports submitted by monitors that monitored the conduct of security officials in the 2012 Ondo State governorship elections. The reports of the monitors are considered credible as monitors conducted their assignment in a relatively free environment. There were very few reported cases of attempts to obstruct election observation. Public enlightenment campaigns organized by NHRC, INEC, civil society organizations and the mass media before the elections improved knowledge of the general public and security officials in particular on the important role of election monitors in the conduct of free and fair elections. The support of the UNDP under the project through the deployment, production of checklists and the training of monitors has greatly improved the efficiency and effectiveness of the Commission in monitoring the conduct

of security personnel during elections. The improved performance of the security agencies and the peaceful conduct of the elections has brought a lot of credibility to our elections and has thereby deepened our democracy. The cost of field deployment is the total sum of **₦18,328,880.00**.

iv. Production of IEC materials for training and field work

a) Training manual for security personnel.

In order to support the step down of their training and thereby improve their efficiency in the field, the UNDP through the Commission supported the Nigerian Police and other security agencies with copies of the training manual for election duty security personnel. The copies were distributed to all the DPOs and equivalents in other security agencies before the election. The security personnel interviewed by monitors in the field confirmed that the training manual was used to conduct step down trainings in their various commands. The improved performance of the security personnel can therefore be said to have been contributed to by the usage of the IEC materials supplied under the project. A copy of the said manual is attached.

The total cost for this activity is the sum of **₦27,000**.

b) Handbook for security personnel.

There are 3009 polling stations in Ondo state that were to be covered by a minimum of 3 security personnel during the elections. The total number of security personnel to be deployed on election duty was therefore estimated at 3009 x 3 totalling 9027. However only 3009 copies of the handbook were

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produced and distributed to support security personnel on election duty as a quick reference point in times of need in the field. The monitors were happy to see some security officials referring to their handbooks while in the field on Election Day. A copy of the said hand book for security personnel is attached. The total cost of this activity is the sum of N361,080.

c)

Posters for security personnel and Monitors

1(one) poster per polling unit totalling 3009 posters at the total cost of N300,900 was produced and distributed to promote the friendly relationship between the voters and security personnel at the election venue. The posters were seen pasted at various polling stations as well as offices of security personnel visited during the elections. There was hardly any case of reported clash between security personnel and voters during the election. This can be attributed to this poster promotion of friendliness between security personnel and voters. The cost of this activity was the sum of N300,900

d)

Handbook for election security Monitors.

Of 188 election security monitors deployed, each was given a handbook. 260 handbooks were produced at the cost of N50,000 only. The handbooks helped the monitors to refresh their minds on their monitoring skills and guidelines for security personnel while in the field on Election Day.

e) **Checklists for election security Monitors fieldwork**

Each of the 198 monitors deployed was given checklists to cover ten polling stations totalling 1980 polling stations covered during the election. The checklists were analysed after the elections for compilation of this report. 2,500 checklists were produced at the cost of N300,000. While some were used for training activities, the rest was used for fieldwork during the monitoring exercise.

f) **Reflective Jackets.**

All the monitors have been involved in previous election exercises and were expected to use their reflective jackets. So, new ones were not produced for the Ondo state governorship election 2012.

v) **Report writing**

The compilation of the election report was carried out with the combined effort of consultants, data processing analysts, LRS team leaders and state team leader. The findings from the fieldwork are summarised in the later part of this report. The cost of this activity is the sum of N708,000

vi) **Strategic briefing of stakeholders.**

The strategic briefing of stakeholders is aimed at enlightening them on the outcome of the exercise and to acknowledge the support of the UNDP and Joint Donor basket as well as the contributions of NHRC and CSOs to the success of the project. The outcome of the election, which was free and fair, shows improved performance on the part of the security personnel confirmed by other stakeholders after the election. The brief

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will also outline the achievements of the project with the support of UNDP and the joint Donor Basket. This activity is estimated to cost the sum of N325,000 only

vii) Modalities For Project Implementation

All funds were to be transferred to the NHRC for project implementation. 60% of the funds were transferred upon the signing of the LOA while the balance of 40% will be transferred after the submission of the project financial and narrative reports.

viii) Timelines for the implementation of the project.

The timelines for the implementation of the critical aspects of the project were kept irrespective of the late signing of the LOA. Following the suspension of the training of security personnel to avoid duplication of efforts, the monitors were trained to make the project implementation more effective. However the security agencies were supported with IEC materials during the election.

4.0 Findings.

The findings of the election monitoring mission will be presented in two sub-sections. These are the presence and punctuality of security officials, and the conduct and effectiveness of security officials.

a) *Presence and punctuality of security officials*

The monitoring checklist developed under the project elicited information on the number of security officials present at each polling unit and whether or not security officials were punctual and stayed at their election duty posts. Analysis of results showed that security officials were present in most polling units monitored. None (0 per cent) of polling units was reported to have no security officials in the election. Majority of polling units had more than 3 security officials (52%). As Table 1 shows,

security officials were fairly distributed to all the polling stations indifferent local government areas in the state. The observation could not reveal any systematic rationale for deployment of security officials between the cities and suburbs but it is reasonable to believe that most of the polling units with one officer were in the suburbs while the city centres had a majority of more than 3 security personnel. Also possible hotspots could have influenced the security agencies on the deployment of security personnel during the 2012 Ondo elections.

The monitoring reports showed that in majority of cases, (51%) security officials arrived at the polling units by 8 am when elections were supposed to commence as shown in Table 2. It would appear that the project impacted positively on the conduct of security personnel as regards their punctuality and sustained presence in the polling stations. The importance attached to the 2012 Ondo State Governorship election project by the UNDP resulting in the funding of this project, past monitoring activities and sensitisation on the importance of the role of security personnel during elections, may have accounted for the higher percentage of security officials that were punctual for election duty during the elections.

Generally, monitors considered the presence of security officials at polling units to be adequate. Most of monitors claimed that the presence of security officials at all times at the polling units was either 'very adequate' or 'adequate'.

Table 1: Presence of security officials at the Polling Centres

Election	No police	1 police	2 police	3 or more police
• 2012 Ondo State Governorship election	0%	6%	40%	52%

Table 2: Punctuality of security officials at the Polling Centres

distributed to all the polling stations in the state. The observation could be for deployment of security officials. It is reasonable to believe that most were in the suburbs while the city had 3 security personnel. Also possible is security agencies on the deployment for 2012 Ondo elections.

In majority of cases, (51%) security officials arrived by 8 am when elections were held. In Table 2, it would appear that the conduct of security personnel as they remained presence in the polling stations. In 2012 Ondo State Governorship election, the funding of this project, past emphasis on the importance of the role of security agencies may have accounted for the higher percentage that were punctual for election duty.

The presence of security officials at the polling centres, as monitors claimed that the presence of security officials at the polling units was either 'very

Security officials at the Polling Centres

No police	1 police	2 police	3 or more police
0%	8%	40%	52%

Security officials at the Polling Centres

Election	Police arrived before or by 7 a.m.	Police arrived between 7 and 8 a.m.	Police arrived between 8 and 9 a.m.	Police arrived after 9 a.m.
• 2012 Ondo State gubernatorial election	17%	34%	32%	16%

a) Conduct and effectiveness of security officials

The monitor's checklist contained a number of questions intended to gauge the general conduct of the security officials and their effectiveness at the polling units. The questions were carefully designed to show the extent to which security officials were aware of and complied with electoral rules and code of conduct. In their responses to some of these questions, monitors appeared to have been generally satisfied with conduct of the security officials. To start with, the bearing of firearms at the polling units, monitors reported that security officials mostly complied with directives not to carry firearms to the polling units. As Table 3 shows, possession of arms by security officials at polling units was minimal.

Table 3: Percentage of security officials carrying Firearms at the Polling Centres

Election	No Arms	Yes with Arms	Don't Know.
2012 Ondo State gubernatorial election	95%	4%	1%

With regards to display of courtesy, most of the monitors considered the security officials to have been courteous and approachable during the general elections. The security officials were adjudged courteous by 97 per cent of monitors during the elections. A similar trend of high level of satisfaction was expressed by monitors on the degree of impartiality demonstrated by security officials in the polling units they monitored as shown in Table 4.

Table 4. Level of impartiality of security officials at the Polling Centre

Election	Very impartial	Impartial	Somewhat impartial	Not impartial at all
2012 Ondo State Gubernatorial election	17%	80%	2%	1%

The monitors were also highly impressed by the ability of security officials to maintain order at polling units. Correspondingly, a large majority of monitors reported that the polling units appeared safe and secure to all participants in the electoral process.

Table 5. Level of security at the Polling Centres

Election	Very safe and secure	Safe and secure	Somewhat safe and secure	Not safe and secure at all
2012 Ondo State Gubernatorial election	22%	70%	8%	0%

In the isolated cases where monitors reported of threats to security (4%), they were highly impressed at the level and character of responses of security officials to the perceived threats.

Monitors also reported that security officials in most polling units followed the instructions of the presiding officers during the three elections (76%). However, in some cases (7%), monitors reported that security officials in at least a 7% of polling units failed to follow instructions of the presiding officer.

One other important finding of the observation was the minimal use of force during the elections. Only in 1(one) per cent of polling units was force used and this use of force was considered 'very necessary' by 43% of monitors. Furthermore, in most polling units where security officials applied force, monitors reported that the type and degree of force applied was generally proportionate to the perceived threats to security (72 %.)

Security officials at the Polling Centres

Very impartial	Impartial	Somewhat impartial	Not impartial at all
17%	80%	2%	1%

They were impressed by the ability of security officials at the polling units. Correspondingly, a large majority of the polling units appeared safe and secure during the electoral process.

Security at the Polling Centres

Very safe and secure	Safe and secure	Somewhat safe and secure	Not safe and secure at all
22%	70%	8%	0%

The monitors reported on threats to security at the level and character of the perceived threats.

Security officials in most polling units and the presiding officers during the three elections in some cases (7%), monitors reported that in a 7% of polling units failed to follow the instructions of the officer.

One of the observations was the minimal use of force. Only in 1(one) per cent of polling units was force considered 'very necessary' by the monitors. In most polling units where security officials reported that the type and degree of force was proportionate to the perceived threats to

It is hardly surprising therefore that the assessment of observers about the overall conduct of security officials in polling units during the elections was mostly positive. As Table 6 shows that in 0 percentage of polling units was the conduct of security agencies considered to be 'fair', 'poor' and 'very poor'.

Table 6. Overall conduct of security personnel at the Polling Centres

Election	Very good	Good	Fair	Poor	Very poor	Condemnable
2012 Ondo State gubernatorial election	7%	79%	13%	0%	0%	0%

Interestingly, assessment of the overall conduct of security agencies has shown increasing improvement after successive elections. This is directly related to the intervention in this project. Before 2007 general elections when the UNDP commenced the election security project with the Commission, the report on the conduct of security personnel during elections was very poor.

In Edo elections 2012, most of the polling units were recorded to have security officials whose overall conduct was rated to be 'good' (74%) (as against 64% in Kogi Election and 70% April 2011 Governorship elections) and 'very good' (8%) as against (6%) in Kogi and 4% in April 2011 elections.

Table 7. Overall conduct of security personnel at the Polling Centres in previous elections

Election	Very good	Good
2012 Ondo State gubernatorial election	7%	79%
2012 Edo Governorship elections	8%	74%
2011 Kogi Governorship elections	6%	64%
2011 April general elections	4%	70%

The foregoing findings reveal that the security officials deployed on election duty at polling units during the 2012 Ondo State governorship elections performed above expectation as most monitors adjudged their overall conduct in the elections to be either 'very good' or 'good'. There is also a marked improvement over the years. It will be recalled that after the 2003 elections, the report of the Police Service Commission concluded that:

"Based on information collected, the following areas of observed police conduct at the polling centre during the April and May 2003 elections appeared less than satisfactory. There was impartiality in the performance of their duty; punctuality and use of force *notwithstanding, considering the structural and institutional limitations under which the police in the country, especially during elections, police conduct and performance at the polling centres during the April and May 2003 elections were generally satisfactory*".

The improvement recorded can be attributed to the support of the project by the UNDP and the concerted efforts of government agencies with oversight functions on the conduct of security agencies, NHRC, INEC and civil society organizations such as CLEEN Foundation, Transition Monitoring Group (TMG) etc after the experience of 2011 elections. There are indications that several recommendations of election security monitoring agencies and organisations which were taken on board by the UNDP to support the funding of this project has contributed to the improvements observed in the 2012 Edo and Ondo elections. Both NHRC and CLEEN Foundation carried out pre- election security threat analysis which warned and assisted stakeholders to make adequate security arrangements for the 2102 Ondo elections. Noteworthy is the inter-agency coordination which saw other security and para-military agencies collaborating effectively with the police during the elections. However, although the reports from monitors discussed above give very good rating of security officials, there is need for caution in making

the security officials deployed on the 2012 Ondo State governorship election as most monitors adjudged their performance either 'very good' or 'good'. There is no doubt that in the years. It will be recalled that after the Police Service Commission

the following areas of the polling centre during the April 2012 elections appeared less than satisfactory, the performance of their duty; notwithstanding, considering the conditions under which the police in the 2012 elections, police conduct and the performance of the centres during the April and May 2012 elections was satisfactory".

be attributed to the support of the project and efforts of government agencies with the conduct of security agencies, NHRC, INEC and other stakeholders such as CLEEN Foundation, Transition Foundation and others. After the experience of 2011 elections, the Commission's recommendations of election security measures which were taken on board by the Commission and the implementation of this project has contributed to the successful conduct of the 2012 Edo and Ondo elections. Both states carried out pre-election security threat assessments and assisted stakeholders to make adequate preparations for the 2012 Ondo elections. Noteworthy is the fact that the Commission saw other security and para-military agencies working closely with the police during the elections. The findings from monitors discussed above give very positive feedback. However, there is need for caution in making

generalizations on the basis of monitoring exercises that were confined to polling units. There is no doubt that such generalization about the conduct of security agencies would entail observation of the whole gamut of interventions of security agencies in the electoral process. The monitoring did not include conduct of security officials during transportation of electoral materials and at the collation centres where most of the election frauds are usually perpetrated. Sadly, the present monitoring mission failed to apply the recommendation of the 2003 report that observation should be extended to activities of security officials during the transportation of election materials and at the collation centres. Poor transportation allowance for Monitors and Fear of electoral violence immediately the results were declared scared the monitors away and most of them left Akure before the results were collated and declared to avoid being caught up in any violence after the elections.

5.0 PROJECT CHALLENGES AND LESSONS LEARNT:

A. CHALLENGES

Some challenges were encountered during the project implementation. Some of the challenges encountered include the following:

- i) The late signing of the LOA resulted in the suspension of the training of security personnel as the remaining time to step down security training before the elections was insufficient. The Commission mitigated this challenge by ensuring adequate distribution of produced IEC materials to all local government headquarters of the police, NSCDC and the FRSC.
- ii) Full payment of participants at each stage of project execution was delayed as a result of the late signing of the LOA and late disbursement of project funds.
- iii) There was short time to contact partners and participants. Mobilization of the targeted Observers/ Security agencies and nomination of participants by individual CSOs and agencies needed enough time to be put in place. The Commission set up

an inter-agency implementation Committee and through the work of this Committee, time to get input from partner organizations was reduced.

- iv) Restriction on vehicular movement on the Election Day made it difficult for monitors to hire vehicles for easy movement to polling and collation centres. The operators of few available vehicles charged exorbitant fares making the financial provision made for transportation to be grossly inadequate. To overcome this challenge, monitors had to use Keke NAPEP and motor bikes to ease transportation on the Election Day.
- v) In the past, the Commission used to apply to INEC for accreditation to monitor elections. However with the passage into law of NHRC Amendment Act 2010, the Commission is now an independent Commission with full autonomy and independence to carry out its mandate to protect and promote the right of Nigerians including their right to vote without fear of harm by security personnel. Whereas INEC requires all organisations participating as observers to get accreditation, the Commission in exercise of its new mandate felt only obliged to inform INEC of its intention to monitor security agencies involved in the election and not necessary to get INEC approval to discharge its mandate. During the Edo election 2012, when the Commission informed INEC of its intention to carry out its mandate, INEC mistook this as a late application for accreditation. The Commission is already taking steps to dialogue with INEC to clarify the position of the Commission and to avoid misunderstanding in future elections.
- vi) Limited funds meant that observers travelled to their duty posts one day to the election. This made it difficult for monitors to meet and strategize on how to carry out their assignments earlier than the night before the election. The telephone contact distributed to the monitors helped them to network where it was difficult to meet formally before the election.

Implementation Committee and through the committee, time to get input from partner agencies.

...movement on the Election Day made it difficult for voters to hire vehicles for easy movement to the polling centres. The operators of few available vehicles charged exorbitant fares making the financial burden of transportation to be grossly inadequate. To overcome this challenge, monitors had to use Keke Napele for voter transportation on the Election Day.

The Commission used to apply to INEC for monitor elections. However with the passage of the Electoral Act 2010, the Commission is now operating with full autonomy and is to carry out its mandate to protect and promote the rights of citizens including their right to vote without fear of intimidation by personnel. Whereas INEC requires all persons wishing to act as observers to get accreditation from INEC, the exercise of its new mandate felt only obliged to inform its intention to monitor security agencies and not necessary to get INEC approval. During the Edo election 2012, when the Commission informed INEC of its intention to carry out its mandate, INEC mistook this as a late application for accreditation. The Commission is already taking steps to engage INEC to clarify the position of the Commission and its understanding in future elections.

that observers travelled to their duty posts in person. This made it difficult for monitors to size up how to carry out their assignments just before the election. The telephone contact between monitors helped them to network where it was lacking before the election.

Difficult terrain in some parts of Ondo state especially in the riverine areas meant that the observers could not effectively cover such areas.

The terms of disbursement of project funds under the LOA should be further clarified. When should the balance of 40% after the initial 60% be advanced? Is it after the completion of the activities and reporting thereto and or the final financial reporting. When is financial reporting final. Is it when all expenses have been paid to the vendors by NHRC or when funds already remitted have been fully accounted for by NHRC. Does retirement at this stage entitle NHRC to the balance of 40% or must the NHRC borrow money to pay the 40% and then claim refund from UNDP in-order to make it a final financial report. We suggest that final report on activities and full report on funds already disbursed as at execution of all activities and the financial plan for the expenditure of the balance of 40% should entitle NHRC to balance from UNDP. In the alternative, the UNDP can make direct payment to the vendors for the balance of 40%. Thirdly, the balance should be made less than 10% after final narrative reporting to enable implementing agency like NHRC source the money as 40% is too high for the NHRC or other implementing agencies to source. The disbursement ratio should be 60% upon signing of LOA, 30% upon final narrative report and preliminary financial report on the 60%. Then 10% upon final financial reporting.

B. LESSONS LEARNT:

- There is need for early signing of the LOA to facilitate early arrangements for the smooth implementation of project. Adequate and early training for security personnel, election security monitors and INEC officials is essential for orderly and successful conduct of elections.
- Provision of food and drink for security personnel and Electoral Officers, will ensure that they remain on their duty posts

throughout the period of election.

- The presence of election security monitors at polling centres acts as a passive restraint on security personnel and election officials in the conduct of their duties.
- Partnership with the media at all stages of the project greatly enhanced the effectiveness of the monitoring exercise as project activities were adequately publicized.
- Considering the hazardous nature of election assignments, hazard allowance should be paid and more generous provisions should be made in future for election observation to attract participants and election security observers.

6.0 GENERAL RECOMMENDATIONS

The 2012 Ondo Governorship election has generally and rightly been adjudged to be substantially violence free, fair and credible. However, election monitoring conducted by the National Human Rights Commission revealed a number of lessons especially in the conduct of security officials that need to be addressed to guarantee the success of the future elections.

1. Timely delivery and retrieval of election materials.

The major challenge on the election day of 20th October, 2012, was late delivery of election materials and late commencement of polls in a few local governments and even in Akure and nearby LGAs. The inability of INEC to perfect its logistic arrangements despite several experiences on elections remains surprising. After the elections, several Presiding officers were seen waiting to be evacuated to collation centres. It may be advisable to engage persons with vehicles as presiding officers or money provided to Presiding officers to hire their own vehicles while security is provided for the transportation and retrieval of election materials on Election Day. This can help reduce delays and other logistic problems that increase tension and suspicions of plans to divert materials or rig the polls.

election.

Security monitors at polling centres should be trained on security personnel and election laws to perform their duties.

Media at all stages of the project greatly enhanced the monitoring exercise and should be adequately publicized.

Perilous nature of election assignments should be paid and more general training should be made in future for election observation and election security observers.

RECOMMENDATIONS

The election has generally and rightly been violence free, fair and credible. However, lessons learned by the National Human Rights Commission of lessons especially in the conduct of elections should be addressed to guarantee the success of future elections.

1. Retrieval of election materials.

The election day of 20th October, 2012, was marked by late commencement of polls in a few areas in Akure and nearby LGAs. The inability to retrieve election materials despite several experienced personnel was a major problem. After the elections, several Presiding Officers had to be evacuated to collation centres. It may be recommended that Presiding Officers should be provided with vehicles as presiding officers should be encouraged to hire their own vehicles while retrieving election materials. This can help reduce delays and other logistical problems and suspicions of plans to divert election materials.

2. Security reinforcement during movement to collation centres and polling stations.

The possibility of snatching of election materials or ballot boxes during the movement to and from distribution/collation centres suggests the need for reinforcement by armed escorts during transport of materials/results to distribution/collation centres. There is need to ensure that this link is strengthened as delivery and retrieval of materials in the field continued to be a major security concern during Ondo elections.

3. Enforcement of Regulations on firearms

About 11,000 security personnel from the Military, Police, NSCDC, FRSC etc were deployed for the Ondo Election. There was an overwhelming presence of firearms in and around the state though not at the polling stations, by military and mobile police security personnel due to perceived election violence. Though the few presence of firearms at the polling units enhanced security and more effective management of conflict, this regulation, especially the regulation which prohibits security personnel or incumbents from coming to the polling units with armed escorts, should be enforced as these could be easily abused. Being an aberration during elections, the rules of engagement of future military personnel should be explained in advance to the voters. This was not done before the Ondo election to douse the apprehension created by the overwhelming presence of military personnel during the elections.

4. Timely prosecution of election rule offenders

Quick dispensation of justice in the trial of suspected violators of election regulations arrested during the Ondo Governorship election will help check security breaches and enhance credibility of the role of the security agencies at elections. This will help to restore confidence in the electoral process.

5. Post-election reviews

Security agencies should embark on post-election review of security

after each election with inputs from political parties, independent observers, NHRC, INEC Monitors, religious leaders and the mass media. The present pre- election meeting between INEC, stakeholders and the security agencies is commendable. However there is need for the post- election review of security of the election process to eternalise lessons learnt before they are forgotten.

VI. Early warning system

The NHRC and CLEEN Foundation reports on pre- election security assessment of the Ondo Governorship Election helped security personnel and stakeholders to put measures in place which resulted in peaceful conduct of the Ondo election. Whereas the reports came out too close to the election, an earlier warning could further improve planning for security by stakeholders. Security agencies also need to improve on intelligence gathering to complement the efforts of stakeholders on pre-election security assessments.

VII. Special protection of election observers/monitors

Some of the security personnel on election duty prevented the free movement of some monitors on election duty. The leadership of security agencies involved in the elections should take appropriate steps to brief their men adequately on the collaborative nature of election security assignment and provide security for election monitors/observers. Security officials involved in the violating the rights of election observers to carry out their election duties should be disciplined.

VIII. Payment of entitlement of security officials.

Authorities of security agencies should ensure that funds allocated for transportation and feeding allowances of security officials are disbursed before Election Day to enhance the morale of the officials and promote the integrity of the electoral process.

IX. Provision of communication equipment

Modern communication facilities should be provided for all election security personnel to forestall any violence and to ease communication during the elections. Where this is not possible, election security

inputs from political parties, independent EC Monitors, religious leaders and the mass election meeting between INEC, stakeholders. This is commendable. However there is need for the security of the election process to eternalise as they are forgotten.

System

The Foundation reports on pre- election security in Ondo Governorship Election helped security officers to put measures in place which resulted in a smooth Ondo election. Whereas the reports came out late, an earlier warning could further improve the situation for stakeholders. Security agencies also need to be gathering to complement the efforts of election security assessments.

Protection of election observers/monitors

Personnel on election duty prevented the free movement of monitors on election duty. The leadership of security agencies should take appropriate steps to brief monitors on the collaborative nature of election security. Security agencies should provide security for election monitors. Security officials involved in the violating the rights of election monitors on their election duties should be disciplined.

Entitlement of security officials.

Security agencies should ensure that funds allocated for providing allowances of security officials are disbursed. This will enhance the morale of the officials and promote a smooth electoral process.

Communication equipment

Communication facilities should be provided for all election monitors to prevent any violence and to ease communication. Where this is not possible, election security

personnel should be provided with communication allowances to use their personal phones.

7.0 PROJECT RECOMMENDATIONS:

Government

- The military and the State Security Services (SSS) should be included among the participating agencies in future collaborations and training for election security personnel. Most of the problems encountered by monitors were in the hands of SSS and military personnel on election duty.
- The different security agencies need to incorporate election security in their training curricula. This is important as the nation's security agencies would be called upon to play important roles in future elections. It is necessary that officers understand the challenges of security in elections and appropriate tools of engagement. This would imply extending the code of conduct for police officers on election duty to officials of other security agencies.

Development Partners

- There should be early approval of the projects for timely execution.
- Early release of funds by the UNDP is highly encouraged to enable the implementation agency to have a suitable payment plan that would not cause problems in the implementation of the project.
- Monitors go through difficulties in transportation on Election Day. More robust provision should be made for Election Day transportation in the project. There should be full payment of DSA and travelling allowance to cover the travelling expenses.
- There should be an increase in the number of election security monitors per state for adequate coverage and better results. For an election security monitor to do his work accurately, few

polling units can only be covered to ensure proper reporting of the actual incidents at their polling units without relying on the information they got from the electorates or other monitors in some cases. While some should be stationary monitors, others should be roving monitors to ensure better coverage of the election security project. This is only possible where there are many monitors available for the exercise.

- Monitors are exposed to a lot of risks especially pre and post-election violence, there should be hazard allowance to ameliorate the stress the monitors undergo in the process of carrying out election duties.
- Election duty stickers should be one of the IEC materials provided for monitors by the Commission to ease movement on Election Day.

iii) Civil Society Organisations.

- In order to improve their skills at election security monitoring, CSOs should learn to specialize in the area of election security monitoring. More CSOs should be involved in the monitoring activities of the Commission and training should be extended to them.
- There is need for continued strengthening of the capacity of civil society organizations working with the Commission and security agencies. Such support would go a long way in enhancing the capacity of such organizations to embark on comprehensive programmes beyond the electoral cycle.

1.0 CONCLUSION.

The Commission is grateful for the sustained partnership between itself, the UNDP and the Joint Donor Basket Fund on election security project from 2007 and 2011 general elections to the 2011 Kogi and 2012 Edo,

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without relying on the
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go a long way in
to embark on
electoral cycle.

ship between itself,
security project
and 2012 Edo,

Governorship elections and now the 2012 Ondo Governorship elections.

The election security project has been implemented with the collaboration of the Nigeria Police, the NSCDC, the FRSC, the NBA and the civil society. It cannot be overemphasised that without the cooperation of all, the several election security projects would not have been successful.

While appreciating our existing partnership, we look forward to more areas of collaboration in the very near future with INEC, the Military and SSS, as necessary stakeholders in election security.

Part 4: Other Thematic Issues of Concern to the Commission

In addition to its focus on specific rights violations, the Commission also monitored several thematic issues during the reporting period. The thematic issues generally cut across several interrelated rights, but together form a phenomenon or situation with significant implications for human rights protection in Nigeria. Several of the thematic issues addressed in this report were addressed in previous editions of this report, and therefore build on earlier cases and situations discussed. Like in Part 1 and 2, this largely focused on individual rights; Part 3 attempts to include discussions of the legal framework, cases arising during the reporting period, and offers some recommendations to key parties for how the thematic issue can be better addressed in the future.

In the 2011-12 Report we address the following thematic issues:

- Insurgency, Inter-Communal Conflicts and other related violence
- Corruption
- Access to Justice & Independence of the Judiciary
- Sexual and Gender Based Violence
- The Rights of the Child
- Environment
- Human Trafficking

As with previous chapters, but perhaps even more so given the breadth of the thematic issues addressed within Part 3, each of the chapters in this section could easily be the exclusive subject of a much longer publication on its own. However, for the purposes of this report, we have attempted to address issues broadly and briefly in order to provide a general overview, rather than deeply. In this regard, we offer the discussions of thematic issues below as a jumping off point for further study and in-depth reporting.

Commission

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Chapter Thirteen

13

Insurgency, Inter-Communal and other related Violence

Introduction

Nigeria has continued to record numerous cases of insurgency and violent communal conflicts despite the provisions of the 1999 constitution and other binding regional and international instruments that enjoin the state to ensure that citizens enjoy peace, order and a life free from fear. The 2009/2010 edition of the State of Human Rights report noted the recurring incidents of communal conflicts in Nigeria from 1914 to the present. It also drew attention to the return of civil democratic rule in 1999 and the hope that this development raised for the amelioration of communal and other conflicts. Unfortunately, since the last report, rather than abate there has been an increase in the scale, scope, and intensity of communal crises in Nigeria. As an indication of the magnitude and spread of these conflicts, military contingents were deployed in at least 30 of Nigeria's 36 States to perform peace enforcement duties in 2012.

In the period covered by this report, religious based conflict perpetrated by Boko Haram and other extremist Islamic fundamentalist groups continued to threaten the peaceful existence of the country. In addition to a notable uptick in terrorist activities, communal conflicts have increased in frequency between Fulani herdsmen and local farming communities, especially in the North Central zone of Nigeria. Generally,

terrorism and inter-communal violence most affected states in northern Nigeria.

Terrorism and communal conflicts have adversely affected the human rights situation in the country. Security of life and property is under serious and constant threat. The conflicts have led to the internal displacement of communities and the massive loss of lives and property. The degree of human rights violations and abuses arising from the various conflicts is alarming. In some situations, it has led to complete breakdown of law and order. Quite frequently, the army and other security forces that are deployed to these conflict areas use excessive force, thereby worsening the situation. They are often accused of bias, thus making them distrusted by some sections of the communities where they are expected to restore peace, law and order and seriously undermining their mission.

Victims of the relentless attacks include innocent civilians caught in the crossfire between terrorists and Nigerian security forces, as well as between communities engaged in inter-communal conflict. These conflicts, besides leading to loss of lives and property worth billions of Naira, also leave in their wake hundreds of dead, injured and maimed. As is often the case, a vast majority of these victims are the aged, women, and children. In their condition of displacement, they have limited access to basic necessities like food, clothing, shelter, and medical care. Furthermore, since many of the communities affected by these conflicts are agrarian, the conflicts affect their livelihood, raising the real possibility of wide spread hunger, with its attendant health implications.

Nigeria has ratified 9 of the international legal instruments against terrorism and has enacted a number of criminal laws covering various aspects of counter-terrorism, including a Money Laundering Act in March 2011 and Terrorism Prevention Act in February 2011.

ence most affected states in northern

have adversely affected the human security of life and property is under conflict. These conflicts have led to the internal displacement of millions of people, the massive loss of lives and property, and the commission of human rights violations and abuses arising from the conflict. In these situations, it has led to complete breakdown of law and order. Frequently, the army and other security forces in these conflict areas use excessive force. They are often accused of bias, and some sections of the communities are targeted for peace, law and order and seriously

include innocent civilians caught in the conflict. Nigerian security forces, as well as the inter-communal conflict. These conflicts have resulted in the loss of lives and property worth billions of dollars, hundreds of dead, injured and maimed. Many of these victims are the aged, women and children. In addition to displacement, they have lost their homes, food, clothing, shelter, and other necessities. Many of the communities affected by these conflicts affect their livelihood, raising the issue of hunger, with its attendant health

international legal instruments against terrorism and a Money Laundering Act in 2003 and a Money Laundering Act in 2003 in February 2011.

The Nigerian government has taken some steps at curbing the spread of conflict and violence by strengthening security apparatus, international collaborations, intelligence and information, community policing, negotiations, dialogue, and in some cases, providing a grant of amnesty. Nonetheless, there have been concerns about the nature and manner in which the security forces have conducted themselves in the discharge of the government duty to protect lives and property in conflict areas. For instance, women protested against the presence of security forces in Vwang District in Jos South Local Government Area of Plateau State after the community was attacked under suspicious circumstances that suggested the complicity of security forces.

Complaints received by the Commission

In the period under review (2011-12), the Commission only received one complaint of terrorism or inter-communal violence, despite the high incidence of cases reported in the new media. This is:

1. In April 2012, the Commission received a request for mediation from the Ezza and Ezillo communities in Ebonyi State. These communities have been engulfed in an age old conflict over the ownership of land. During the reporting period, the Commission began planning for mediation with all stakeholders with a view to finding a lasting settlement to the issues.

Other cases reported / documented

In the period under review (2011-12), there were countless reports in the media on incidents of terrorism and inter-communal conflict in Nigeria. These include:

1. On 9 April 2011, the *Tribune* newspaper reported that the INEC

office in Niger State was bombed, killing 25 persons and wounding others.

2. On 16 June 2011, the *Punch* newspaper reported that a suicide bomber drove a bomb loaded car into Police Headquarters in Abuja, killing 2 persons and destroying property. Boko Haram claimed responsibility for the attack.
3. On 27 July 2011, *This Day* newspaper reported that 25 persons were killed in a bomb blast in Maiduguri metropolis by a suspected Boko Haram group.
4. On 26 August 2011, the UN building in Abuja was bombed, killing 20 people and wounding several others. Boko Haram claimed responsibility, threatening to launch more attacks after Ramadan.
5. On 25 December 2011, the *Vanguard* newspaper reported that a Catholic Church in Madalla, Niger State was bombed, killing 10 persons and injuring several others. Properties were also destroyed as a result of the bombing. Boko Haram claimed responsibility for this attack.
6. On 30 March 2012, the *Leadership* and the *Nation* reported that gunmen suspected to be members of Boko Haram attacked police and prison facilities in Damagum, the headquarters of Fune Local Government Area, Yobe State, setting free 14 prison inmates held at the satellite prison. Confirming the incident, the State Police Public Relations Officer, ASP Gbadegesin Toyin stated that a temporary military camp and an area occupied by Korean doctors at the Damagum general hospital were also attacked by the gunmen. During the attack, three of the gunmen were killed as well as a senior staff of the hospital.

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7. On 23 April 2012, *The Daily Trust* reported that gunmen suspected to be members of Boko Haram shot a police sergeant, identified as Sergeant Yakubu Musa, around Naira Road, Rigasa area of Kaduna metropolis. The area was reported to have witnessed a series of attacks and killings of police officers by unknown gunmen.
8. On 1 May 2012, *The Nation* reported that from January 2012 to May 2012, gunmen suspected to be Boko Haram, had killed not less than 45 officers and men of the Adamawa State Police command.
9. On 1 May 2012, the *This Day* reported that 11 persons were killed and 20 injured in an attack by suspected Boko Haram members. The attack was adjacent to the police headquarters in Taraba state.
10. On 1 May 2012, the *Daily Independent* reported that 7 persons lost their lives in Jalingo, Taraba State, after a suspected suicide bomber drove into the convoy of Taraba State Police Commissioner, Mamman Sule.
11. On 2 May 2012, the *Leadership* reported that no fewer than 13 people were killed when armed Fulani gunmen stormed six Berom villages in Riyom LGA of Plateau state.
12. On 4 May 2012, *This Day* reported that at least 34 persons were killed in Potiskum, the commercial capital of Yobe State, during a siege on the cattle market by bandits suspected to be Boko Haram members.

13. On 11 May 2012, *This Day* reported that about seven people were killed in their sleep in an attack by suspected Fulani herdsmen that occurred on 10th May, 2012 in Rinyam Tahoss village, Riyom LGA of Plateau State.
14. On 15 May 2012, the *Daily Champion* reported that several persons were killed in Delta State, including a Divisional Police Officer (DPO) attached to Ethiope East Local Government, Superintendent Steve Chigbue, the Administrative Officer (AO), an Inspector, a Corporal and an unidentified female passenger were shot by unknown gunmen.
15. On 22 May 2012, the *Independent* reported that four civilians and a police Superintendent were killed in separate attacks that took place in Maiduguri by suspected Boko Haram sect members using Improvised Explosives and guns.
16. On 26 May 2012, *This Day* reported that three policemen and four other persons lost their lives in a shootout between the police and a gang of armed robbers during an attack on First Bank Nigeria's branch in Ilesa-Ekiti, Ekiti East Local Government Area, Ekiti State.
17. On 2 June 2012, the *Vanguard* stated that 5 people were killed on 1 June 2012, in three separate attacks in Maiduguri metropolis, Borno state.
18. On 9 June 2012, the *Punch* reported that 5 persons were killed in a suicide attack on the Borno State Police Command Headquarters in Maiduguri.

This Day reported that about seven people were killed while sleeping in an attack by suspected Fulani herdsmen on 10th May, 2012 in Rinyam Tahoss in Plateau State.

The Daily Champion reported that several people were killed in Delta State, including a Divisional Police Officer, a member of the Ethiopian East Local Government, a Police Officer, a Corporal and an unidentified female killed by unknown gunmen.

The Independent reported that four civilians were killed in separate attacks that were attributed to suspected Boko Haram sect members in Maiduguri by suspected Boko Haram sect members who provided Explosives and guns.

This Day reported that three policemen and a woman lost their lives in a shootout between the police and armed robbers during an attack on First Bank branch in Ilesa-Ekiti, Ekiti East Local Government, Ekiti State.

The Vanguard stated that 5 people were killed in three separate attacks in Maiduguri, Borno State.

The Punch reported that 5 persons were killed in an attack on the Borno State Police Command in Maiduguri.

19. On 11 June 2012, the *Leadership* reported that Churches in Jos, Plateau State, and Biu in Borno states, were attacked. In Jos, a suicide bomber drove into the auditorium of Christ Chosen Church, along Rukuba Road in Jos North LGA, during worship hours, killing 10 worshippers while over 60 were injured. While in Biu, gunmen invaded the EYN Church and fired on worshippers, killing and injuring many of them.
20. On 11 June 2012, the *Daily Trust* reported that at least 13 Fulani herdsmen were killed in Karim Lamido LGA of Taraba State, in a reprisal attack by suspected Bachuma farmers who allegedly raided some villages on 10 June, 2012.
21. On 13 June 2012 *This Day* reported that 3 persons, including a mobile police officer and a police sergeant, were killed in separate attacks as suspected Boko Haram gunmen opened fire on a Divisional Police Headquarters and bombed a bank, carting away large sums of money, in Yana town of Misau LGA of Bauchi state.
22. On 19 June 2012, *This Day* reported that about 74 persons died as a result of a bomb attack by Boko Haram in Kaduna State.
23. On 19 June 2012, the *Daily Trust* reported that many people including civilians and security operatives were killed through bombs and gun attacks in many parts of Damaturu, Yobe State.
24. On 19 June 2012, the *Nation* reported that the Nigerian Army confirmed the death of one of its Sergeants in the bomb attacks that took place in ECWA and Christ the King churches in Zaria, Kaduna.

25. On 23 June 2012, the *Independent* reported that soldiers deployed to maintain the peace in Kaduna metropolis and its environs engaged unidentified gunmen believed to be terrorists in a gun battle in Rigasa area of the metropolis, leading to the death of a soldier and one suspected terrorist.
26. On 23 June 2012, the *Daily Trust* reported that four people were killed on 20 May 2012 as a result of confusion that broke out at Lawan Bukar Ward in Maiduguri metropolis when an improvised explosive device (IED) targeting a military patrol vehicle exploded.
27. On 31 June 2012, the *Leadership* reported that on 30 May 2012, unknown gunmen attacked a bakery in Udiya area of Mafa LGA of Borno State, killing 6 persons and injuring many others.
28. On 4 July 2012, the *Daily Trust* reported that several Fulani houses were burnt in Barkin Ladi local government area of Plateau State, after unidentified persons said to be residents of the village killed a member of the STF and seized his weapon.
29. On 5 July 2012, the *Daily Sun* reported that four people were killed and 20 injured, following a land dispute between Kediya in Ganjuwa L.G.A. and Golo communities in Kirfi L.G.A. of Bauchi State.
30. On 9 July 2012, the *Leadership* reported that Senator Gyang Dantong, representing Plateau, and the majority leader in Plateau State House of Assembly, Hon. Gyang Fulani, both died as a result of a stampede, following an attack by gunmen

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at the mass burial of victims of a massacre in Maseh village in
Riyom LGA of Plateau state.

31. On 14 July 2012, *The Guardian* reported that a suicide bomber suspected to be a member of Boko Haram bombed the Central Mosque inside the Shehu of Borno's Palace in Maiduguri, killing a soldier and injuring other military personnel.
32. On 17 July 2012, *This Day* reported that on 16 July 2012, gunmen believed to be members of Boko Haram attacked a police station at Damaturu, Yobe State, killing a recruit.
33. On 23 July 2012, *The Nation* reported that a six-year old boy was killed and ten others injured when a bomb hidden inside a wheel-barrow exploded near a beer garden in Bauchi State.
34. On 27 July 2012, the *Daily Independent* reported that four policemen were killed while several other people were injured when gunmen suspected to be members of Boko Haram attacked a police station in Gubio, headquarters of the Gubio LGA of Borno state.
35. On 29 July 2012, the *Sun* reported that Boko Haram attacked a primary school in Maiduguri, Borno State capital, setting ablaze classrooms and the headmaster's office. Similarly, 3 policemen were killed in Bauchi when gunmen attacked a bank and a police station.
36. On 30 July 2012, the *Daily Sun* reported that four persons, among them two Air Force men, were killed on 29 July 2012 in Kano by gunmen suspected to be members of Boko Haram. A motorcyclist was also injured.

37. On 8 August 2-12, the *Sun* reported that suspected member Boko Haram attacked worshippers at Deeper Life Bible Church in Otite, Okene Local Council in Kogi State, during a weekly Bible study, killing 16 people on the 7th of August, 2012.
38. On 9 August 2012, *The Sun* reported that at least 12 persons were feared dead and property worth millions of naira destroyed in a clash between inhabitants of Ojantele and Ijer communities in Otukpo and Obi local government area, Benue state, following a dispute over a piece of land.
39. On 18 August 2012, *The Guardian*, as well as *The Punch* reported that 40 persons were killed by bombing while worshipping in churches at Wusasa and Sabon Gari areas, Zaria and Kaduna.
40. On 19 August 2012, *The Nation* reported that three people were killed in Barkin Ladi LGA of Plateau State.
41. On 22 August 2012, the *This Day* reported that 2 persons were killed in Biu, Borno State, in an attack on a Mosque on 21 August 2012.
42. On 3 September 2012, *The Nation* reported that suspected Boko Haram members killed a police sergeant and two civilians at New Marte LGA of Borno State.
43. On 16 September 2012, the *Independent* reported that on 15 September 2012, Bukar Goni Kolo, a chieftain of All Nigeria Peoples Party (ANPP), was shot dead by unknown gunmen suspected to be members of Boko Haram in Maiduguri, Borno state.

The Sun reported that suspected members of armed worshippers at Deeper Life Bible Church, local Council in Kogi State, during a weekly service killed 16 people on the 7th of August, 2012.

The Sun reported that at least 12 persons and property worth millions of naira destroyed when inhabitants of Ojantele and Ijegwu, Oshun State and Obi local government areas of Oyo State were killed during a dispute over a piece of land.

On 12, The Guardian, as well as The Punch reported that 10 persons were killed by bombing while attending church at Wusasa and Sabon Gari areas of Kano State.

On 12, The Nation reported that three people were killed in an attack on an LGA of Plateau State.

On 12, the This Day reported that 2 persons were killed in an attack on a Mosque on 21 August 2012.

On 12, The Nation reported that suspected Boko Haram members killed a police sergeant and two civilians in an attack on a mosque in Borno State.

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44. On 18 September 2012, the Daily Trust reported that unknown gunmen stormed the home of the former Comptroller General of Prisons, killing his security guard and a prison warder and injuring the former Comptroller General and another security guard.

45. On 10 October 2012, the Sun reported that 3 people were killed in a clash between the Fulanis and the Berom in Plateau State.

46. On 17 October 2012, The Vanguard reported that 30 women and children were killed by herdsmen during a conflict between Tiv and Fulani in Benue State.

47. On 17 October 2012, the Leadership, People's Daily and Champion reported that on 16 October 2012, a gun battle between security operatives in Borno State and Boko Haram members left 24 members of the insurgent group dead.

48. On 19 October 2012, the Tribune reported that following a series of explosions in the city of Maiduguri, on 18 October 2012, 13 civilians, 2 soldiers and 24 members of Boko Haram were killed.

49. On 20 October 2012, the Weekly Trust reported that 13 people were killed in Nasarawa State over the clash between herdsmen and farmers.

50. On 22 October 2012, the Daily Sun reported that 14 persons were missing and over 1,000 cattle were killed in a renewed clash between Fulani herdsmen and farmers in Giza Development Area of Nasarawa State.

51. On 24 October 2012, the *Vanguard* reported that Boko Haram had killed about 2,800 people since it commenced in 2009.
52. On 1 November 2012, the *Independent* reported that on 31 October 2012, 4 persons were killed when schools, churches and a telecommunication mast were destroyed by members of Boko Haram in Borno State.
53. On 3 November 2012, the *Daily Sun* reported that on 2 November 2012, some Boko Haram members killed Gen. Shuwa, a Nigerian civil war veteran and his guest in Maiduguri.
54. On 26 November 2012, the *Daily Champion* reported that on 25 November 2012, suicide bombers from Boko Haram attacked a church at Jaji military barracks Kaduna, killing 30 persons and injuring 40.
55. On 11 December 2012, the *Tribune* reported that gunmen suspected to be Boko Haram members attacked a Potiskum town in Yobe State, killing a DPO and 13 others. It was also reported that the gunmen razed down a branch of Unity Bank in the town, a telecommunication mast and a police station.
56. On 31 December 2012, *The Punch* reported that 109 members of Ekklesiyyar Church of Nigeria in the North East lost their lives in an attack on the church by Boko Haram.

reported that Boko Haram commenced in 2009.

report reported that on [redacted] schools, churches [redacted] destroyed by members of [redacted]

report reported that on 2 [redacted] members killed Gen. [redacted] request in Maiduguri.

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report reported that gunmen [redacted] attacked a Potiskum [redacted] others. It was also [redacted] of Unity Bank in [redacted] police station.

report reported that 109 members [redacted] lost their lives in [redacted]

Recommendations

The Commission is extremely concerned with the frequency and scale of terrorism and inter-communal violence in Nigeria. Accordingly, the Commission undertakes to:

- Use its powers to investigate instances of terrorism and inter-communal violence reported to it, and use its powers to ensure accountability for perpetrators and adequate remedy for victims.

Chapter Fourteen



Corruption

Introduction

Corruption is an evil vice that permeates the political, socio-economic, religious, institutional, and judicial life of any nation. Corruption no doubt poses a serious challenge to Nigeria, and if not curbed has the potential to impoverish the country with its negative effects on the populace. Corruption thrives in a society where punishment for corrupt practices is inadequate or non-existent.

Transparency International defines corruption as "an abuse of entrusted power for private gain." Corruption generally refers to dishonest or fraudulent conduct by people vested with authority and usually takes the form of bribery, gratification (e.g. giving/receiving gifts) or may be seen in the way and manner issues are handled and conducted within a system.

The opposite of corruption is good governance, or the practice of ensuring greater satisfaction of people of a society, through entrenching transparency, accountability, respect for human rights and the rule of law. The quality of governance enjoyed by citizenry is directly related to the existence of a reduced level of corruption, entrenchment of transparency and accountability in the provision of public services, and sustainable improvement in public service delivery.

For Nigeria to attain its aspiration of becoming one of the 20 most developed economies in the world by the year 2020, the fight against corruption must be of topmost priorities to government at all levels.

Nexus between corruption and human rights

Corruption deprives the state of its capacity to meet its obligations to respect, protect, and fulfill the human rights of its citizenry.

While human rights grant individuals entitlement to live with dignity and freedoms, corruption impedes the full realization of human rights. Corruption drains public resources thereby maintaining widespread poverty, exclusion and inequality, hunger, illiteracy, poor medical care, increased infant and maternal mortality, poor amenities, and insecurity. Corruption also often results in slow economic growth and underdevelopment, as well as poor infrastructure and services.

Background on fight against corruption in Nigeria

Conscious efforts directed at fighting corruption in Nigeria began during the 1970s. However, corruption proliferated during the 1980s and 1990s—leading then President Olusegun Obasanjo, in his inaugural speech in 1999, to state:

"the rules and regulations for doing official business were deliberately ignored, set aside or bypassed to facilitate corrupt practices, instead of progress and development, which we are entitled to, except those who govern us. We experienced in the last decade and half and particularly in the last but one regime, persistent deterioration in the weakening of all institutions."

However, in 2012, Transparency International reported that corruption continues to persist in Nigeria, indicating that the country has performed poorly in the Corruption Perception Index—ranking 139th out of the 176 countries surveyed. Note however, that this marks a slight improvement from 2011 when it was ranked 143rd.

International legal framework

To ensure that the fight against corruption is won, anti-corruption legislation must be put in place. Nigeria is a party to several regional and international conventions and agreements that pertain to corruption. These include the UN Convention Against Corruption (UNCAC), the African Union Convention on Preventing and Combating Corruption, and the ECOWAS Protocol. Although Nigeria has signed and ratified the UNCAC and UNTOC treaties, it has yet to domesticate these instruments.

The UNCAC applies to the prevention, investigation, and prosecution of corruption and to the freezing, seizure, confiscation, and return of the proceeds of offences established in accordance with this convention. Article 5 (Preventive anti-corruption policies and practices) states that each State party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

The African Union Convention on Preventing and Combating Corruption has mandatory requirements for declaration of assets by designated public officials and restrictions on immunity for public officials. Article 5 (2) calls for state parties to strengthen national control measures to ensure that the setting up and operation of foreign companies in the

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investigation, and prosecution of corruption, confiscation, and return of the proceeds of corruption. In accordance with this convention, the United Nations Convention Against Corruption (UNCAC) states that the convention is consistent with the fundamental principles of the rule of law, proper management of public property, integrity, transparency and

Preventing and Combating Corruption (UNCAC) declaration of assets by designated public officials. Article 5 of the convention strengthens national control measures to regulate the operation of foreign companies in the

territory of the state party shall be subjected to the respect of the national legislation in force. Article 19 calls on State parties to collaborate with the countries of origin of multi-nationals to criminalize and punish the practice of secret commissions and other forms of corrupt practices during international trade transactions. It also encourages all countries to take legislative measures to prevent corrupt public officials from enjoying illegally acquired monies.

The ECOWAS Protocol on the fight against corruption requires that each state party create effective mechanisms for preventing, punishing and eradicating corruption, as well as boost the cooperation between states parties with a view to improving the efficiency of measure for combating corruption and promoting the harmonization and coordination of national laws and policies for combating corruption.

Nigerian legal context

Many of the provisions of these international treaties have also been drafted into domestic laws, such as the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act, Economic and Financial Crimes Commission (EFCC) Act, Public Prosecution Act, and criminal laws (e.g. Criminal Code and Penal Code).

Nigeria has also established anti-graft agencies to combat corruption, such as:

- Office of the Auditor-General at the federal and state levels
- Economic and Financial Crimes Commission (EFCC)
- Independent Corrupt Practices and Other Related Offences Commission (ICPC)
- Nigerian Extractive Industries Transparency Initiative (NEITI)
- Code of Conduct Bureau (CCB) and Code of Conduct Tribunal (CCT)

- Fiscal Responsibility Commission
- Bureaus of Public Procurement (BPPs) at the federal and state levels

Progress towards eliminating corruption in Nigeria

To curb corruption, the Federal Government established the Inter-Agency Task Team (IATT) as a coordinating platform for all government agencies with anti-corruption mandates. The IATT came into being with the inauguration of the Technical Unit on Governance and Anti-corruption Reforms (TUGAR). The IATT seeks to encourage joint investigation and prosecution of cases of corruption, which is expected to increase the effectiveness of sanctions of corruption. To achieve this aim, the IATT has jointly drafted a National Anti-Corruption Strategy that aims at ensuring the synergy and coordination of the overall anti-corruption effort.

Furthermore, the anti-corruption agencies, with the support of the United Nations, have embarked on a Corruption Risk Assessment project aimed at preventing and closing the door to illicit activities related to corruption. During the reporting period, pilot "Corruption Risk Assessment projects" are being undertaken by Ministries, Departments, and Agencies (MDAs) whose work is relevant to the Millennium Development Goals (e.g. ministries of health, education, and water).

Despite the efforts of government towards addressing corruption, it has remained a significant problem. Most of the institutions saddled with the responsibility of fighting corruption are poorly funded, lack independence, and have low staff and institutional capacity.

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Additionally, there is need for more synergy between the efforts of anti-corruption agencies, as well as stronger protections for whistle blowers and witnesses of corruption, and more effective court processes.

Complaints received by the Commission

In the period under review (2011-12), the Commission received only one case on corruption. However, the Commission does have a policy to refer any such cases to the appropriate authorities that have the mandate to prosecute crimes related to corruption (e.g. EFCC, ICPC, etc).

1. On 26 June 2012, Ms. Dorothy Sunday Nwagwu, a resident of Rafasei Suleja, Niger State and a victim of fraud (double allocation of landed property by government authorities) complained to the Commission that a plot of land she bought at Idu-Karmo was collected from her and another allocated to her at Pagi, Kuje with plot No: c/30/8, after she paid all the necessary fees. According to Ms. Nwagwu, when she went to inspect the land, she discovered that someone had already built a house on the new land. When she complained to the Director of Lands at the Federal Capital Development Authority (FCDA), the Director told her that the land in question was allocated to three persons, but promised to refund all her expenses on the land. Up to the time of her complaint, she had not gotten any refund from the FCDA.

Other cases reported / documented

In the period under review (2011-12), there were countless reports in the media on incidents of flagrant corruption in Nigeria. These reports range

from acts perpetrated in the Police Pension Office, to the fuel subsidy scheme, to the conviction of a former governor of Delta State for massive theft of state funds, to bribery involving international companies such as Halliburton Daimler (U.S.) and Siemens (Germany). These include:

1. On 9 May 2012, the *Daily Independent* (pg. 10) reported that a Nigerian Police Inspector (*name withheld*) attached to the Special Fraud Unit (SFU) of the Force Criminal Investigation Department (FCID) was arrested and detained for allegedly collecting a N20,000 bribe from a suspect to pervert the course of justice. The police officer was reportedly arrested on orders of the Commissioner of Police in charge of SFU, Tunde Ogunshakin. After his arrest, the officer was put through orderly room trial and dismissed from the police.
2. On 11 May 2012, the *Daily Trust* (Pg. 3) reported a scam at the Security and Exchange Commission (SEC), in which an Abuja High Court approved the arraignment of Lonwase Herman Hembe and Azubuogo Emeka Ifeanyi, who were at the time serving as Chairman and Deputy Chairman on the House of Representatives Committee on Capital Market and Institutions, respectively, for a bribery allegation by the Director General of the SEC, Ms. Aruma Oteh during the public hearing on the activities of SEC. In a two-count charge brought by the Counsel to the EFCC, Barrister Onjefu Obe, the anti-graft agency, alleged that Hembe and Ifeanyi converted to their own use the sum of \$4,095 (USD) given to them by the SEC as travelling allowance to a conference in Dominican Republic in October 2011, contrary to section 308 of the Penal Code Act, Laws of the Federation of Nigeria, 2004. The lawmakers both denied the allegations in their statements to the EFCC. The matter was never prosecuted.

Police Pension Office, to the fuel subsidy for a former governor of Delta State for bribery involving international companies (U.S.) and Siemens (Germany). These

Daily Independent (pg. 10) reported that a doctor (name withheld) attached to the SFU of the Force Criminal Investigation was arrested and detained for allegedly bribe from a suspect to pervert the course of justice. The officer was reportedly arrested on orders of the Police in charge of SFU, Tunde Odeh. At the time of arrest, the officer was put through orderly march from the police.

Daily Trust (Pg. 3) reported a scam at the Economic and Financial Crimes Commission (EFCC), in which an Abuja lawyer, the arraignment of Lorraine Herman and Eneke Ifeanyi, who were at the time Vice Chairman on the House of Representatives Committee on Capital Market and Institutions, made a bribery allegation by the Director General of the EFCC during the public hearing on the two-count charge brought by the Counsel General Onifemi Obe, the anti-graft agency, and Ifeanyi converted to their own use the money given to them by the SEC as travelling expenses in Dominican Republic in October 2008 of the Penal Code Act, Laws of the Federation, 2004. The lawmakers both denied the allegations. The matter was

3. On 15 March 2012, *The Punch* (Pg. 18) reported that N151 billion was uncovered as missing by the Pension Reform Task Force, leading to revelations of alleged brazen thefts going on in the police pension office. *Daily Trust* reported that the Senate Panel investigating the alleged mismanagement of pension funds uncovered over N26bn of further missing funds in the police pension funds office. In the same article, the Task Force informed the Senate Panel during the public hearing that it had recovered N28bn from the police pension office and lodged it in undisclosed banks.
4. On 17 May 2012, the *Nigerian Tribune* (Pg. 1 & 4) reported that the House of Representatives Committee, which probed the subsidy on petroleum products by the Federal Government, uncovered N229,706,023,200 fraud in the payment of the subsidy between 2010 and 2012. The report stated that the Subsidy Probe Committee headed by Hon. Farouk Lawn, in its recommendations, called on the Economic and Financial Crimes Commission (EFCC) to investigate the companies indicted in the report. However, on 15 June 2012 the *Leadership* (Pg. 7) reported that the then acting Inspector General of Police, Mohammed Abubakar, ordered the arrest and detention of Hon. Lawn, over his alleged complicity in a USD \$3 million bribery allegation. Hon. Lawn was accused by the chairman of Zenon Petroleum and Gas Ltd, Mr. Femi Otedola, of demanding a USD \$3 million bribe and receiving USD \$620,000.
5. On 14 June 2012, the *Peoples' Daily* (Pg. 5) reported that the Asst. Inspector General of Police in charge of Zone 1, Mr.

Philimon Ibrahim Leha, expressed disappointment over the recruitment process of the Nigeria Police stating that it was full of corruption.

Recommendations

The Commission makes the following recommendations:

To the EFCC and the ICPC:

- Embrace their mandates to combat corruption in Nigeria
- Pursue more cases of high-level and low-level instances of corruption vigilantly.
- Once convictions in cases of corruption are obtained, the Commission recommends that both institutions make concerted efforts to publicize the cases and findings to ensure that more Nigerians are aware of the consequences of corruption.

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Chapter Fifteen



Access to Justice & Independence of the Judiciary

Access to Justice

Introduction

Without effective access to justice, there is no effective legal protection of human rights. That is why the legislatures or parliaments, governments and courts of every country have a positive duty to translate the ideal of effective access to justice into practical reality. Everyone, everywhere, should enjoy the equal protection of the law if there is to be justice for all.

The term *access to justice* means that people who are in need of help are able to find effective solutions available through existing justice systems, which are accessible, affordable and comprehensive and which dispense justice fairly, speedily and without discrimination. This includes through court and alternative dispute resolution processes. Furthermore, access to justice refers to a condition and process whereby the state guarantees the fulfillment of citizens' basic rights under the constitution, as well as other regional and international human rights treaties. It refers to a situation where citizens are able to acquire the necessary knowledge, understanding, awareness and ability to exercise those rights through formal as well as informal institutions, supported by accessible and responsive public complaints mechanisms.

Access to justice can also be described as access by people, in particular from poor and disadvantaged groups, to fair, effective and accountable mechanisms for the protection of rights; control of abuse of power; and resolution of conflicts. This includes the ability to seek and exercise influence on law-making and law-implementing processes and institutions. According to the World Development Report (2006) legal rights remain theoretical if the institutions charged with enforcing them are inaccessible.

The term also refers to judicial and administrative remedies and procedures available to a person (natural or juristic) aggrieved or likely to be aggrieved by an issue. It refers also to a fair and equitable legal framework that protects human rights and ensures delivery of justice. According to the UNDP, in many societies there are obstacles to obtaining access to justice that may be caused by a variety of reasons. Barriers to justice must be therefore categorized and identified in order to promote better law and policy-making processes.

Access to justice is an indispensable means of combating poverty related violations of human rights and resolving conflicts. It is also about empowering the poor and disadvantaged groups like women, children, people living with HIV/AIDS, and people with disabilities to seek remedies for injustice.

Strengthening the formal justice sector is critical to promoting access to justice, but the formal justice sector alone cannot guarantee access to justice if the population is unaware of their rights, or unable to access justice institutions due to physical, financial or intangible barriers. It is also important to take into consideration the fact that most disputes are settled through non-formal mechanisms.

Repeated studies of access to justice have shown that two factors predominate in determining whether people are able to use available

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justice sector is critical to promoting access to justice. The sector alone cannot guarantee access to justice for people who are unaware of their rights, or unable to access justice due to physical, financial or intangible barriers. It is important to consider the fact that most disputes are resolved through informal mechanisms.

Access to justice have shown that two factors are important: whether people are able to use available

legal remedies. The first, and by far the most important factor is access to financial resources. Hiring lawyers and using legal institutions can be very costly, but also entail an opportunity cost, which for the poor usually means time away from income-generating activities.

Even where the courts are constitutionally protected, the judiciary is independent, and laws drafted in fairness to the poor, the legal system is of little benefit to the poor if they are able to access it. While access to justice has attracted considerable support, and has featured in recent legal reforms in the developed countries, it has not featured prominently in the good governance agenda in developing countries.

Access to justice in Nigeria

Nigeria has made appreciable progress towards democracy and protection for human rights. However, there is still need for significant improvement in the promotion of citizens' access to justice. Comprehensive justice sector reform requires a strategy that will bring justice closer to the people. This would help to address the low trust and inequities felt by many Nigerians, particularly the poor, in the delivery of justice in Nigeria. Promotion and protection of access to justice would provide a strong framework for achieving social justice for Nigerians. An accessible justice system can work to hold government accountable, increase confidence in the formal legal system, and mitigate the risk of conflict. Where it is common knowledge that violent conflicts occur when an accumulation of unresolved small disputes explode into violent responses, a strong justice sector is necessary for the promotion and protection of social stability.

Access to justice can be improved in Nigeria if measures such as alternative dispute resolution mechanisms are encouraged and properly institutionalized with less emphasis on technical rules. Also, a

strengthened Legal Aid Scheme would impact positively on the quest for the protection of human rights.

Challenges to accessing justice in Nigeria

There are a number of obstacles to the realization of access to justice in Nigeria. These obstacles are; undue delay in the administration of justice; high cost of litigation; over reliance on technical rules; *locus standi*; illiteracy, corruption and others.

Existing institutions in the justice sector are not performing optimally; specifically, these are the police, the courts, legal aid, and prison systems. The failure of these basic institutions also mainly impacts the poor and vulnerable. A DFID mission during the reporting period found that people living in poverty do not get the quality of access to justice from the justice system that they deserve. The key constraints preventing poor people from accessing justice are found both within and outside the formal justice system. The situation is compounded by the impunity of those involved in malpractice or abuse of the system, and a high tolerance of violence in Nigerian society, which leads to people taking the law into their own hands (e.g. through vigilante groups) when the justice system is seen to have failed.

Another serious challenge to access to justice is endemic corruption, which is often worse than in other areas. It goes to the root of justice delivery. Corruption is a denial of justice. Where it is prevalent, the integrity and impartiality of the whole legal system is brought into disrepute. Commitment by heads of governments, the police, and the judiciary is essential to combat corruption. Inaccessibility of courts is another factor that impacts negatively on

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access to justice, especially for people dwelling in rural areas. Courts are usually located in towns away from the rural poor and use languages and proceedings that are difficult for them to understand. Many are run inefficiently. Criminal cases can take years to proceed from arrest to trial.

It is evident from the foregoing that in developing countries like Nigeria, the need for, a fair and equitable legal framework; courts that are accessible and dispense justice speedily; improved customary justice systems; and a greater role for alternative dispute resolution mechanisms as well as penal reform cannot be overemphasized.

Justice sector reform initiatives in Nigeria

- Lagos State has established a Citizens Mediation Center for people who cannot afford to go to the regular courts. It has been reported that more cases are now being filed in the mediation center than in the courts. This is because cases are resolved more rapidly at the Centre and at a lower cost. Other innovations of the Lagos State Government include an Office of the Public Defender, which provides free legal services for indigent people.
- In 2006, the office of the Attorney-General of the Federation initiated a prison decongestion programme by engaging the services of private legal practitioners to provide legal assistance to inmates awaiting trial. Although this initiative was hailed by many as a laudable project, its effectiveness needs to be assessed in order to establish whether the huge amount of money invested into it has produced the desired results.

- The Legal Aid Council of Nigeria, Open Society Justice Initiative (OSJI) and the MacArthur Foundation, piloted a program in four states aimed at addressing the issue of pre-trial detention through the provision of early legal advice and assistance to persons arrested by the police. It achieved a reasonable measure of success in reducing the number of persons going to prison in the pilot states.

Legal aid provision in Nigeria

The Legal Aid Council of Nigeria is the main agency of government responsible for the provision of legal aid and assistance to indigent Nigerians. However, the Council continues to face serious funding constraints that hamper the full realization of its mandate.

The main reason why most defendants are not represented at trial is their financial inability to secure the services of a lawyer. Assistance from public funds was at first only available to indigent defendants in Nigeria if they were accused of capital offences. In such cases, counsel was assigned by the government. This was popularly referred to as the state brief. Apart from this, the only other form of assistance was provided by individual lawyers who might occasionally waive their fees for needy clients. However, Section 46(4)(b)(i) of the 1999 Constitution mandates the legislature to make provisions for the rendering of financial assistance to any indigent citizen of Nigeria who wishes to prosecute an infringement of his/her fundamental rights so as to enable him/her to engage the services of a legal practitioner.

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Law reform to enhance access to justice in Nigeria

Reforming outdated laws and laws that do not comport with human rights standards is critical to improving access to justice. The following bills were presented to the Federal Executive Council for adoption as executive legislations during the reporting period and are now pending before the National Assembly for passage into law:

- ***Bill on Criminal Justice Administration***, which aims to harmonize and consolidate criminal procedure laws, reduce delays and provide for more humane treatment of suspects.
- ***Administration of Justice Commission Bill***, which aims to ensure effective supervision and coordination of the administration of justice by all the relevant organs.
- ***Legal Aid Council (amendment) Bill***, which aims to expand the powers of the Legal Aid Council to provide better legal assistance to indigent persons in coordination with other services providers.
- ***Community Service Bill***, which aims to encourage the award of non-custodial sentences under the criminal justice system, particularly in minor offences and offences involving young persons.
- ***Victims of Crime Remedies Bill***, which aims to improve respect for the rights of victim of crime in the criminal justice system.

- ***Elimination of Violence in Society Bill***, which aims to control violence in society, especially violence directed at vulnerable groups like women and children.
- ***Bill to Amend the Legal Practitioners Act***, which aims to improve the standard of legal practice by, among other things, introducing continuing legal education requirements for practitioners.
- ***Prison Act (Amendment) Bill***, which aims to provide a more appropriate legal framework for prisons administration and the treatment of offenders, consistent with constitutional and international standard, as well as to make the prisons more corrective institutions.
- ***Police (Amendment) Bill***, which aims to introduce fundamental changes in the mission and operations of the Police and improve its effectiveness in providing security services to communities

Police, Prisons and Detention in Nigeria

Prisons are seen as an integral part of the criminal justice system, used to deter and separate criminals while protecting and maintaining rule of law. However, Nigerian prison conditions – which include overcrowding, poor infrastructure, and inadequate facilities – have undermined the role of prisons. Many of these conditions are a result of other prevalent issues in the Nigerian legal system, including inadequate funding and corruption.

Nigeria is subject to both domestic and international legal frameworks

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for the treatment of prisoners and prison conditions, including the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the United Nations Standard Minimum Rules for the Treatment of Prisoners, and the International Covenant on Civil and Political Rights, among others. These instruments establish that human rights principles remain in force regardless of whether an individual has been deprived of their liberty for lawful reasons. This includes fundamental right to inherent dignity of the human person. Further, in accord with International standards, Section 36 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides for fair hearing - including representation by Counsel, as well a speedy trial, adequate time and means to prepare for defence, etc.

In 2012, the Commission - in collaboration with the Legal Resources Consortium - carried out an audit of prisons across the country where the mandate of the Commission empowers it to visit prisons and other places of detention to ascertain conditions therein and make appropriate recommendations to relevant authorities. The report ultimately focused on access to justice because the failure therein impacts all aspects of the lives of the detainees and the functionality of the prison system.

Among the report findings were:

1. The majority of prisons visited exceeded their maximum capacity for number of detainees. However, a few were grossly under-utilized, leading to questions of communication on government infrastructure around monitoring of prisons and prisoners.
2. The high number of detainees awaiting trial demonstrates a systemic violations of the right to fair hearing (speedy trial, lack of legal representation, etc), where some prisons held over double the number of persons detained pending trial as

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2. The high number of detainees awaiting trial demonstrates a systemic violations of the right to fair hearing (speedy trial, lack of legal representation, etc), where some prisons held over double the number of persons detained pending trial as

opposed to convicted inmates, and at least half the number of people awaiting trial had been held for three months or more. The Commission found that in some cases people had been held without trial for 16 years.

3. The prisons are old and dilapidated, with poor sanitary conditions, no recreational or vocational facilities and inadequate infrastructure (water, electricity etc). Further, few prisons had hospital, well-equipped clinics, or medical personnel. Other issues included: lack of adequate toilets, inadequate beds and bedding, insufficient food and water.
4. Lack of sufficient transport vehicles means that detainees are either late to court or cannot attend court on the appointed dates.
5. Many of those waiting for trial did not have legal representation.
6. Many people were in prison because they could not afford bail and, in the case of those convicted, they could not afford court imposed fines that were offered as an alternative – even where it was as low as 3,000 Naira.
7. Many awaiting trial detainees are affected by missing witnesses, unavailability of IPOs, or missing files.
8. Prison Officers often stay in similarly dilapidated barracks, are not adequately remunerated to enable them pay rent their own accommodation, and often have to buy their own uniforms. They also have poor facilities for the keeping and retrieval of records.

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9. In a number of prisons, the children of female detainees lived with them at the prison. Pregnant detainees had no pre- or neo-natal care within the prison facilities. They are often taken to general or teaching hospitals for such cares.

10. Other issues included: lack of ability to adequately care for individuals with mental illness or life threatening ailments.

This report had a number of recommendations for how to address these violations of access to justice, due process, and dignity. They include:

- The Courts should consciously make use of non-custodial sentencing, like fines, community service, suspended sentence, parole, etc, in the short and medium terms, especially in relation to offence that carry less than five years imprisonment.
- A careful case redistribution process should be used to reduce congestion in the prisons.
- There should improved communication between all agencies involved in the criminal justice administration for better synergy in justice administration.
- There should be introduced into court trials facilities such as electronic recording devices, interpreters, etc, to speed up the trial process.
- New prisons should be built nationwide and existing ones expanded to cope with the increasing detainee population.
- Prison facilities should also be renovated and upgraded to meet acceptable international standards.
- More vehicles should be provided to the prisons, while those available should be regularly maintained, to facilitate the movement of detainees to and from courts. This is very vital to detainees' access to justice.

- Prison hospitals and/or clinics should be regularly stocked with medicines/medicaments, and fully equipped to cater for sick detainees and staff, especially those suffering from life threatening illnesses.
- The record keeping system in the prisons should be modernized and the capacity and skill of the prison record officers developed to meet current trends and challenges.
- Where there are female prisons, there should be provision for ante and post natal cares.
- The prison welfare department should be enabled for purposes of locating and maintaining contacts with relatives of detainees.
- There should be created within the prison system, desk officers made up of lawyers and paralegals to liaise with the Commission as well as other Stakeholders to ensure that detainees have access to justice.
- The Legal Aid Council and the Human Rights Committee of the NBA across the country should improve on the provision of free legal services to all persons standing trial for criminal offences in Nigerian courts. This will enhance fair hearing, access to justice and help decongest the prisons.
- To encourage the attendance of witnesses in court, the State should provide adequate security, protection and allowances for such witnesses.
- More IPOs should be assigned to a case such that the absence of one of them does not stall the hearing of the case.
- The National Assembly should pass into law the prison reform bill pending before it.

Work of the Commission on access to justice in Nigeria

The Commission has undertaken several projects to draw the attention of the government to the justice sector and the inherent obstacles to access to justice in Nigeria.

- The Commission facilitated the release of many detainees from detention and continues to advocate at local and international forums the need for better protection of the rights of Nigerians in general and inmates in particular. For example, in partnership with other stakeholders in the justice sector like the Office of Public Defenders in Lagos State, Legal Resources Consortium, Nigerian Bar Association, Legal Aid Council, International Federation of Women lawyers and other NGOs, the Commission formed a body known as Criminal Justice Network, and have been able to secure the release of about 300 inmates in Nigerian prisons who spent long term in detention without evidence of progress in their prosecution.
- In partnership with other stakeholders comprised of civil society organizations and law firms, the Commission in collaboration with Justice for All (J4A), engaged in a programme which is geared towards justice sector reform. The scheme, which is being sponsored by the UK Department for International Development (DFID), focuses on police cell monitoring and legal advice for inmates. The scheme, which has presently taken off in Isokoko Police Station, involves the Commission and about 8 law firms. A Lagos State-wide scheme is also being coordinated by the Commission.
- The Commission is also partnering with Lagos State and other stakeholders to organise a Public Interest Law Partnership project geared towards provision of pro bono legal services to

indigent litigants.

- The Commission has been carrying out an annual audit of the prisons in Nigeria with a view to assessing the conditions of the prisons and access to justice of inmates of the prisons – especially of inmates awaiting trial. The audits enable the Commission to carry out intervention programs to assist the victims through application to the court for enforcement of their fundamental rights and make recommendations to the Presidential Committee on the prerogative of mercy in appropriate cases.
- The Commission additionally engaged in several laws reform efforts. The commission liaised with Nigerian Law Reform Commission and made recommendations to the government on areas of the law that requires reform. The Commission also attends public hearings and debates at the National Assembly to confirm that laws passed conform to human rights standards. The Commission is additionally a member of the Constitutional Reform Dialogue Mechanism, under which it has promoted the amended Constitution and Electoral Act 2010. Further, the Commission organised a workshop sensitizing the government on the need for alternative sentencing rather than corporal punishment.

Independence of the Judiciary

Introduction

Independence of judiciary is a core element of access to justice. Without a judiciary that can dispense justice without fear or favour, justice will be inevitably compromised. The right to a competent, independent, and

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impartial tribunal is articulated in the Universal Declaration of Human Rights (Article 10) and the International Covenant on Civil and Political Rights (Article 14), as well as in regional treaties and conventions including the African Charter on Human and Peoples Rights (Article 7).

The UN Basic Principles on the Independence of the Judiciary set out the elements of the independence of the judiciary in Principles 1-7. As a basic premise, the independence of the judiciary must be guaranteed by the State and enshrined in the Constitution or in the law of the country. The judiciary must decide matters impartially on the basis of facts and the application of law, without any restrictions, improper influence, inducement, pressure, threats, or interference. The courts themselves shall decide whether they have jurisdiction to hear a matter. There must be no unwarranted interference with the judicial process, including the assignment of judges, by the other branches of government (legislative and executive).

The government may not displace the jurisdiction of the ordinary courts with a tribunal that does not follow established legal procedures. As such, all citizens shall have the right to be tried by ordinary courts or tribunals using established legal procedures. (Alternative processes may be established, such as truth commissions or special tribunals; however, these cannot be ad hoc, must be duly established by law, and must afford the minimum guarantees established by international law.) The judiciary has the authority and obligation to ensure that judicial proceedings are conducted fairly and that the rights of parties are respected.

The integrity and independence of the judiciary is intertwined with the integrity and independence of the judicial process, and influences the extent to which the public perceives the criminal justice process as fair and just. The extent to which judges properly uphold the international standards and norms in conducting criminal trials and proceedings

reflects upon both the integrity of the judge, the court and the system of justice.

Precise definitions of judicial independence are elusive, but the term is normally taken to involve the following:

- **Impartiality:** the judge makes decisions based upon a dispassionate application of law to the facts rather than bias in favour of one party.
- **Political insularity:** the judge is not subject to removal from office or threats for reaching decisions that are unpopular with government.
- **Institutional autonomy:** the judiciary is largely self-governing, is not subject to political cuts to its budget, and is free from administrative interference.
- **Legal authority:** the judiciary possesses genuine powers to determine questions of law and fact in all cases, including those involving the executive branch.
- **Legitimacy:** the judicial branch is recognised by the constitution, other political branches and civil society as a separate entity with the legitimate purpose of upholding the rule of law.
- **Probity:** the judge is immune to bribes, favours, and other forms of influence which might affect impartiality.

Judicial independence, including at least most of the components listed above, is a necessary condition for the judiciary to exercise effective control over the abuse of political power.

Separation of powers and judicial independence

Separation of powers is a crucial component of judicial independence. Behind this doctrine is the notion that no one sector of government should become so dominant as to wield total power; there must be a system to check any rampant or swelling authority. Separation of powers requires that certain enumerated powers should be exclusively exercised by only one branch or sector of government.

The Universal Declaration of Human Right enshrines the principles of: (1) equality before the law, (2) the presumption of innocence, and (3) the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.

The recitals of the Basic Principles on the Independence of the Judiciary also observe that there is frequently a gap between the vision underlining these principles and their actual implementation. The concept of judicial independence has many elements, but generally they fall under the headings of i) Individual and institutional freedom from unwarranted interference with the judicial process, ii) security of tenure and adequacy of remuneration, and iii) appointment and removal of judicial officers.

Judicial independence in Nigeria

Judicial independence is often lacking in developing countries, and judges are particularly vulnerable to political pressure from the executive branch. The Nigerian constitution provides for separation of powers between the different arms of government, even though the executive still wields a lot of power in the area of judicial appointments and remuneration of judicial officers. The largest factor that threatens the independence of the judiciary in Nigeria is corruption; corruption has managed to penetrate every facet of the Nigerian political, social and economic system including the judiciary.

Recent cases include justices of the Court of Appeal being dismissed by the National Judicial Council for receiving bribes in the course of hearing election petition cases. Some judges of the High Court, Customary Court of Appeal, and a Sharia Court of Appeal, were investigated and arrested by security operatives for allegedly carting away large sums of money in Akwa-Ibom State in an election petition tribunal.

Recommendations:

The Commission undertakes to:

- Provide practical and problem-based human rights education to help poor people to protect their livelihoods.

The Commission makes the following recommendations:

To the Federal Government:

- Institutionalize and encourage the use of alternative dispute resolution mechanisms.

To State governments:

- Immediately establish free legal aid clinics to provide ready legal advice and services to indigent individuals.

To the Nigerian Bar Association:

- Promote the use of public interest litigation by advocacy groups and others to challenge the legality of discriminatory government measures
- Support and create paralegal schemes offering legal assistance, advice, and alternative dispute resolution services

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Chapter Sixteen



Sexual and Gender Based Violence

Introduction

In Nigeria, the rate at which women and children are subjected to sexual exploitation, rape, assault and other forms of violence is growing. While Nigeria has acceded to the United Nations Convention on the Elimination of all forms of Discrimination Against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa – both of which include provisions for freedom from sexual violence, domestic violence and other forms of gender-based discrimination - neither have been domesticated.

Section 357 of the Nigerian Criminal Code defines rape as "unlawful carnal knowledge of a woman or girl, without her consent." Lack of consent can be found where it was obtained through threat, intimidation or fraud and the person can be charge with life imprisonment. For a married woman, this can only occur where a person not her husband is "personating him." Section 216 allows that a boy under 14 can be assaulted in a way that is non-consensual, while 218 provides that any "unlawful carnal knowledge of a girl under the age of 13" is guilty of a felony and may be imprisoned for life, while person who has "unlawful carnal knowledge" of a girl between 13-16 is guilty of a misdemeanor and is liable for 2 years imprisonment. Rape under the age of 16 is termed 'defilement'. The Nigerian Penal Code is very similar to the Nigerian Criminal Code, though it expressly states that a husband cannot rape his wife "if she has attained to puberty". However most

accused persons are almost never brought to justice. There are no domestic laws that expressly address intimate partner violence, though both the Criminal Code and Penal Code criminalize assault and battery.

In most cases sexual and gender based offences are treated as a 'domestic issue' and as such treated with laxity by law enforcement agencies. This is further compounded by shoddy investigation by the Police, gender discrimination, and insensitivity to the plight of victims. Add this to the already acute fear of stigmatization, cultural barriers and lack of institutional support for survivors, and it is no surprise that sexual violence is rarely reported.

Complaints received by the NHRC

The National Human Rights Commission received many complains relating to sexual and gender based violence during this reporting period – predominately related to domestic violence and/or sexual violence. A vast majority of those subject to sexual violence were children (see next chapter for more general discussion of the rights of the child). These cases are incredibly difficult to address where government authorities do not enforce the law or investigation requirements, complainants often drop or stop responding to the investigation by the Commission, and respondents often disappear. The nature of these cases has also meant that the Commission has often decided to mediate and seek a memorandum of understanding rather than pursue greater police involvement into the criminal nature of some of the violence.

1. On 4th March 2012, Ms. Helen Otu brought a domestic violence related complaint against her husband, Julius Otu, to the Commission. She alleged that her husband had threatened to kill her and had repeatedly beat her almost to the point of death.

She further alleged that she had lost a pregnancy as a result of the constant battering. While the Commission was trying to mediate, the complainant informed the Commission that they had settled the problem.

2. In August 2012, Mr. Nwoche Peter filed a complaint with the Commission alleging that sometime in July 2012, X-, a 10 year girl, was raped by Polonius Nwabueze, and that as a result, X- contracted a sexually transmitted disease (STD). The complainant further alleged that the family prevented the violator from being arrested. The Commission transferred the case to the South East Zonal office for further investigation.
3. On 8th June 2012, a complaint was submitted to the Commission on behalf of 13 year old E-F-, who was sexually abused and impregnated by a man known as Alhaji. When her mother discovered that E-F- was pregnant, she subjected E-F- to physical, emotional and mental abuse, including denial of food and being forced to sleep outside. The case was reported to the Commission when E-F- was about 7 months pregnant. She was taken to a children's home where she delivered a baby girl in July 2012. The Commission then worked to reunite the E-F- with her own mother and an MOU was signed between the Commission and E-F-'s mother concerning the proper care of EF and the baby.
4. On June 12, 2012, the parents of 6 year old X- brought a complaint to the Commission stating that a court imposed fine of N40,000 on the man who defiled their young daughter was too light in view of the gravity of the offence. According to the complaint, the alleged violator, Umar, admitted to raping the child before the Area Court and was fined N20,000 as court fine and N40,000 as compensation to the victim's family or 6 months

imprisonment. The Commission wrote to the office of the Attorney General and Minister for Justice, requesting it to properly prosecute the case. As at the time of the compilation of the report, the Commission was still awaiting the response from the Office of the Attorney General of the Federation.

5. On 8th March, 2012, the eldest son of Mr. Emmanuel Ekpo reported to the commission that his father has been sexually violating his two daughters, P- (age 13) and V- (age 9) since 2009. According to the complainant, the alleged violator also repeatedly beat up P-, and P- would sometimes run out of the house at ungodly hours to escape the sexual abuse. The victims' mother was invited to the Commission but she denied the allegation. All attempts to meet with the alleged violator were unsuccessful. Subsequent efforts to contact the complainant, victims, and victims' mother were unsuccessful, as they would not respond to phone calls and subsequently changed their numbers. The Commission also had difficulty locating their residence as there were no easily identifiable landmarks. It became obvious that the family did not want any outside involvement in the matter, as all efforts to investigate and find possible solutions were rebuffed.
6. On 28 May, 2012, Mr. E-J- alleged to the Commission that on May 26 2012, Mr John overpowered and raped Mr. E-J-'s 10 year old daughter, Y-. The violator was reported to Gwandara police station, and later charged to court. The Commission, upon investigation, discovered that the complainant had moved to Bayelsa State and expressed unwillingness to pursue the case.
7. On 18th May, 2012, Ms. Saadatu reported to the Commission that her former husband was sexually violating their 2

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daughters, A- (18yrs) and S- (13yrs), both of whom live with him. Through mediation with all parties, and private interview with the children, the Commission found that the allegation could not be substantiated. The core issue seemed to be a lack of privacy where they all shared one room with their father and stepmother and other siblings. However, the girls stated that they wanted to continue living with their father, so, with the assistance of the parties' older son, the Commission redesigned the family house to create a separate room for the girls.

8. On 28 July 2011, the Commission received a complaint stating that a six year old child, M-, was sexually abused on the 23rd of July, 2011 and that the Police in Dei Dei, a suburb of the Federal Capital Territory refused to investigate and prosecute the alleged violator, despite a report made to it by the victim's mother. The Commission contacted the Dei Dei Police station and ensured that proper medical examinations were carried out on the survivor. However, on the day the Police were to transfer the case to the CID for further investigation and possible prosecution, the mother of M-, despite being informed of the actions and next steps to be taken, left Abuja with M. She refused to take or return calls. For lack of witness, the case was closed.
9. On 29 December 2011, Mrs Ndubueze Nwachukwu petitioned the Commission, stating that on 27 December 2008 she married Mr. Ndubueze Nwachukwu, and that since that time her husband has quarrelled at the slightest excuse, abused her verbally, beat her, and threatened to kill her. She added that on 28 September 2011, Mr. Ndubueze returned home drunk, beat her, pushed her out of the house, and then brought out all her belongings (including her certificates, clothing and jewelleryes)

and set them ablaze. The Commission intervened, and after series of mediation meetings, a memorandum of understanding was drawn between both parties and Mr. Ndubueze was made to pay compensation.

10. On 8 February 2012, Christopher Etteh, 49 years, reportedly defiled 8 year old C-O-. The matter was reported to the Woji Police Station, and alleged violator was arrested and charged to court. The Commission also referred the case to Ministry of Social Welfare for medical care.
11. On 16 February 2012, 7 year old M-D- was sexually molested by her mother's boyfriend, Mr. Samson Samuel and the incident was reported to the Bori Divisional Police Station. The alleged violator was arrested, but instead of being charged to court, he was granted bail. Mr. Samuel then paid M-D-'s mother one-hundred thousand Naira as compensation. To protect the child, the Commission referred the matter to Ministry of Social Welfare & Rehabilitation, and she was taken into protective custody.
12. On 12 April 2012, the Commission received a complaint from Bukky Amos, alleging that sometime in February 2012, Mr. Shina Olowookere, whom she had lived with for 13 years and had four children with, locked her out of the house. He only allowed her in after much pleading from her children and her mother. Then, on 10th March, 2012, Mr. Olowookere insisted that she leave his house. For fear of her life and that of her children, she moved out with her four children, and locked up her shop for fear that it would be burnt down by her husband. Subsequent to the complaint, on 3 June, Mr. Olowookere beat Ms. Amos up when she returned to the house to pack some of her belongings. The case was reported to the Police station at

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Gauraka, but rather than settling the matter or prosecuting Mr. Olowookere for assault, the Ms. Amos was detained and Mr. Olowookere was allowed to leave. It took the intervention of the Commission to secure the release of Ms. Amos. The Commission thereafter invited her and Mr. Olowookere for mediation.

13. On 7 June 2012, Mrs. Stella Obialor made a complaint to the Commission regarding domestic violence. She had been married to Mr. Damian Obialor for ten years. According to her, he continuously beat her and the children, he was not providing for the family, and he threatened to disfigure or kill her. He would also lock the family out of the house whenever there was a misunderstanding, and on one occasion had attempted to poison their drum of water. On 6th June, 2011, Mr. Obialor allegedly beat their daughter throughout the night and pushed her into fire. The Commission intervened and the parties agreed that the alleged violator should cease abusing the family, provide for their wellbeing, and pay the children's school fees.
14. On 23 September 2012, the Commission received a complaint from Toyin Saliu, alleging that her husband, Mr Sikiru, had been beating her since they got married in 2007, but she had been tolerating him with the belief that he would change. However, Mr. Sikiru then insisted that she should leave the house with her 2 children and began locking her and the children out of the house regularly. The Commission had a counseling session with them both and they agreed to try and work things out.
15. On 11 October 2012, Ms. Ujunwa Igwilo petitioned the Commission, stating that the man whom she had previously had a relationship with, Mr. Aderonmu Fetugu, was harassing

her and had threatened to kill her if she refused to marry him. Ms. Igwilo stated that during their relationship she had not known that he was married, and when she discovered this, she ended the relationship. It was after this that he threatened to kill her if she failed to marry him. Later, the victim informed the Commission that the matter had been referred to court.

16. On 30 November, 2012, the Commission received a complaint stating that X-, 12 years old, was raped by D, and the rape resulted in a pregnancy. The matter was reported to Elekahia Police station, Port- Harcourt. The alleged violator was arrested but released on bail after 3 days by the Police. All efforts to ensure that he was prosecuted failed when the guardian of X- sent her back to her parents who were located outside of Port Harcourt.

Other cases reported / documented

In the period under review (2011-12), there were countless reports in the media on incidents of sexual and gender based violence in Nigeria. Specific cases include:

1. On the 20th of October 2012, the Vanguard newspaper reported that Mr. Ben Ariwelo was arrested by the Police in Bayelsa State, for allegedly defiling an 8 year old autistic girl. It was further reported that the incident was confirmed by the State Commissioner of Police, Mr. Kingsey Omire, who stated that the alleged violator would be charged to court.
2. On June 18 2012, The Punch newspaper reported that Mrs Funmilayo Ajibola died after being beaten to a state of unconsciousness by her husband, Mr. Kola Ajibola. According

she refused to marry him. In the relationship she had not. When she discovered this, she said that he threatened to kill her. The victim informed the matter to court.

The victim received a letter from D, and the matter was reported to court. The alleged violator was arrested by the Police. All attempts failed when the parents who were located

countless reports in the past violence in Nigeria.

A newspaper reported that the Police in Bayelsa State arrested an autistic girl. It was confirmed by the State Attorney General, who stated that

It was reported that Mrs. Adebayo was taken to a state of emergency. According to Mrs. Adebayo.

to the report, the victim received a call from her uncle and her husband suspecting that she was being unfaithful as the number was not a familiar one, started beating her. Two days later, Mrs. Ajibola was rushed to a nearby hospital which refused to admit and treat her. She consequently died. The matter was reported to the police. Her husband was arrested and as at the time of this report the police were awaiting approval from the Magistrate to go ahead with the autopsy before charging the alleged violator to court.

3. On 12 October 2012, it was reported that C-, 8 years old, was lured into the bush by a neighbour and raped. The neighbour was seen coming out from the bush with the victim by the victim's elder brother. The child was questioned and she narrated the incident. The matter was reported to Special Police Area Rumukoro, Obiakpor LGA, Rivers State and the alleged violator was arrested but released on bail without being charged to court.
4. On 14 November 2012, it was reported that a 16 years old girl, D-V- was gang raped by Vigale and his friends. The alleged violators were said to have pretended to rescue her from cult members, only for them to gang rape her. The matter was reported to Kpor Police Station, Gokana. Vigale was arrested and charged to court. While, awaiting DPP's advice, the alleged violator was released from prison custody. A petition was sent to the Office of the Attorney -General of Rivers State, and the case is under further investigation.
5. On 11 September 2012, E-, 14 years old, was raped by her neighbour, who followed her into the community bathroom, when she went to take a bath. The matter was reported to Mile 1 Police station in Port Harcourt, and the alleged violator was

arrested and charged to court. At court, instead of giving evidence, E and her guardian declined, stating that their Pastor had instructed them to forgive the alleged violator.

6. On 26 April 2012, P-, 14 years old, was reportedly raped by Tokpe and Beckamp, students from her school. The incident was reported at the Police checkpoint in Eteo, Eleme LGA. One of the alleged violators was arrested but later released after paying a bail bond of 10,000 Naira to the Police, without being charged to court.
7. On 8 May 2012, B-, 6 years old, reported being raped by Ezekiah Ogan in a Church. He was arrested and detained at Borikiri Police Station and later released when the father of the victim stated that he was not interested in pursuing the matter.
8. On 7 March 2012, S-, 5 years old, was sexually molested by Mr. Ifeanyi Ogidi and the matter was reported at Woji Police station Port-Harcourt. Mr. Ogidi was arrested and detained, and he was made to pay the sum of Three Hundred Thousand Naira as compensation to the victim's family. He was then granted bail. All efforts to make the police charge the matter to court failed. A petition was sent to the Office of the Attorney General, Commissioner for Justice, Rivers State Ministry of Justice, on the unwillingness to investigate and prosecute a case of defilement by the Police. At the time Ministry responded, the victim's family was no longer interested in pursuing the case.
9. On 14 February 2012, E-, 15 years, was sexually abused by Jephtha Abaadam, the son of the proprietor of Life Time Orphanage Home. The matter was reported to Woji Police Station. The alleged violator and his parents were arrested but later released by the police.

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Recommendations

The Commission makes the following recommendations:

To the Federal Government and State Governments:

- Review existing laws on sexual and gender based violence to broaden the definition of rape to include acts that do not involve penetration.
- Review existing laws on sexual and gender based violence to broaden the definition of rape to include a gender-neutral definition of who can be the victim of such a crime.
- Review existing laws on sexual and gender based violence to remove the term 'unlawful carnal knowledge' of a girl below the age of 13 to state 'any sexual acts', where the law presupposes that a child below the age of 13 does not have the capacity to consent.
- Review existing laws on sexual and gender based violence to broaden the definition of defilement to include a gender-neutral definition of who can be the victim of such a crime.
- Ensure that police are adequately trained in how to engage with and treat the survivor of sexual or gender based violence. This includes:
 - Requirements around minimum investigation into allegations
 - Knowledge of immediately necessary investigation and reporting requirements for

- different types of assaults (ie rape kits, photographic evidence of assault, etc.)
 - Training and requirements on how to engage with and interact with survivors of sexual or gender based violence
- Engage in awareness raising campaigns about the harmful nature of sexual and gender based violence, provide resources to survivors, and create strict zero-tolerance policies for how to address such behavior.

Chapter Seventeen



The Rights of the Child

Introduction

Children occupy a very unique position in society at large, often because they are seen as the most vulnerable to abuses and the least able to defend themselves. As children, they are subject to special vulnerabilities when it comes to labour exploitation, family issues, sexual and gender based violence, access to health care and due process where they often suffer both from violations of their own rights as well as from the violations of the rights of their primary care-taker. Further, the primary duty bearer for guaranteeing their rights is their guardian, with the state tasked to intervene where the guardian proves unable or unwilling to do so and to provide secondary positive rights such as access to education. Where children are seen as the wards of parents and family, special protections are set out in both national and international law protecting the rights and setting out the obligations of the parent and family to a child, as well as those specific to the child.

The United Nations Convention on the Rights of the Child (CRC), which built on limited protections set out under the Universal Declaration of Human Rights, the International Covenant on Social and Political Rights and the Convention on the Elimination of all forms of Discrimination Against Women, entered into force in September 1990. The CRC explicitly establishes that all individuals below the age of 18 are considered children, who, due to that status should be afforded, among

others, the right to freedom from discrimination (Art. 2(1)), to nationality (Art. 7(1)), to not be unnecessarily separated from parents (Art. 9), freedom of thought, conscious, and religion (Art. 14), and freedom from abuse and neglect (Art. 19). Other International Conventions also guarantee freedom from work exploitation, freedom from sexual abuse, and the right to education.

Two unique features of the CRC are that the "rights and duties" of the child's guardians are considered when determining the rights and duties of the child, and the convention establishes that the "best interests of the child" should be the primary concern of the state when making decisions that concern the rights and welfare of the child. These two features play a significant role in national and international legislation, policy, and principles when determining how to afford children basic human rights protections.

Progress towards protection of rights of the child in Nigeria

The Commission, as well as various Ministries of Women Affairs and Civil Society Organizations (CSOs) have been in the forefront of initiatives aimed at promoting and protecting the rights of this most vulnerable segment of the society. Nigeria ratified the CRC in 1991 and is also a party to the African Charter on the Rights and Welfare of the Child (ACRWC), and in 2003 the National Assembly passed the Child Rights Act, which attempts to domesticate the CRC into Nigerian law. However, the 1999 Constitution gives the States the exclusive jurisdiction to make laws governing children, meaning that the Child Rights Act needs to be promulgated into State law to be enforced. To date, 26 states have domesticated the Act, though it has yet to be implemented at the national or domestic level. In addition, the Children and Young Persons Act (CYPA) of 1943 – originally created with a view

to deter and punish child offenders – remains in effect. This act has disparities as to the minimum age of criminal liability of a child and allows for actions to be taken against the child without considerations to the best interest of the child.

Complaints received by the Commission

While physical abuse, sexual abuse (see Chapter 12), and labor exploitation are the prevailing rights violations reported to the Commission, the Commission also had to mediate multiple separation and custody disputes to ensure the best interests of the child were at the core of any decision. Cases received by the Commission included:

1. On 23rd May 2012, Ms. F.A. reported to the Commission that Mr. A. had neglected and abandoned the family, failing to provide for the welfare and upkeep of their 7 year old son, M-. According to Ms. F.A., Mr. A. denied paternity of the child. The Commission required a DNA test, which confirmed that Mr. A is the child's father. Meanwhile, it was noted that M-, an autistic child, needs the support of both parents. Both parties came to an agreement that Mr. A would provide for the upkeep of the child, and that M- would be enrolled in a special school to guarantee his wellbeing.
2. On 2nd August 2012, the Law firm of Danladi Adams & Co. wrote to the Commission, reporting the abandonment, neglect and abuse of a 3 year old girl, A-, by her father Mr. G. The firm stated that the child was subject to hunger, a deplorable state of health and homelessness. The firm further stated that they had taken up the matter for either amicable resolution or prosecution in court if mediation failed. The Commission was able to amicably resolve the case and Mr. G took full responsibility for the child.

3. On 6th June 2012, Mrs. Mercy Nuhu reported to the Commission that, after the death of her husband in 2005, her husband's sister, Madam Mairo Sale, removed her 4 children - who were between the ages of 9 and 13 years - from her custody. She was not allowed access to them until sometime in February 2012 when she was led to where her eldest child was selling palm wine at Uke market in Nasarawa State, during school hours. The child confirmed that none of his siblings was attending school, but instead were assisting their aunt to sell alcohol at her beer parlour. Efforts by Mercy Nuhu to take custody of her children failed. The Commission, in a bid to ensuring the rights of the children to parental care, access to education and protection against harmful environment, intervened and had the children returned to their mother.

4. On 22nd July 2012, a complaint was received by the Commission alleging that 13 year old J-became partially paralysed due to parental neglect and lack of proper medical care during an illness of meningitis. The father abandoned him, leaving him in the care of his mother, who was forced to take sole responsibility for his medical bills and sustenance. The Commission visited the child at his mother's house at Tudun Wada in Nassarawa State. J- was alone at home without any assistance, given the fact that the mother had to go to work. He is partially blind, has speech impairment and can only move around on his buttocks. The Commission solicited a medical assessment of his condition from a neurosurgeon who reported that the child's constant violent seizures could damage his brain resulting in memory loss and affect mobility. The doctor recommended a CT scan, a wheel chair, a care-giver and regular hospital visits. Through the intervention of the Commission, his father has started contributing to his upkeep.

In order to get him properly treated, the Commission sought, and were granted the assistance of the Taraba State Government for his further treatment and care.

5. On 16th June, 2012, 13 year old C-petitioned the Commission, stating that he was homeless and had been so for some years. He stated that his problem started when his mother, who brought him to Abuja, began mistreating and threatening his life. He requested the Commission to take him off the street and rehabilitate him. The Commission positively responded by ensuring his admission into the Borstal home in Kaduna.
6. On 27th April, 2011, the Commission received a letter from Mrs. Bose Mathew, soliciting assistance to treat her 3 year old son, A-, who was diagnosed with a heart related problem. According to the complainant, the child's father had abandoned them and had refused to take care of the child. The Commission intervened and wrote to the Minister of Health and the Edo State Governor, soliciting assistance to have the child treated outside the country. At the time of filing this report, the Commission is still awaiting responses from the Health Minister and Edo State Government.
7. In August 2011, J and F, 8 and 6 respectively, were taken away from their mother by their father, and denied access and contact with her. J and F's mother and father had been separated since 2005. The father told the Commission at mediation that he kept the children away from their mother because she was causing psychological and emotional harm to them. At the intervention of the Commission, the parents were made to understand the need for the children to be with their mother, given their age and the need for them to ensure the emotional, physical, psychological development of the children. Understanding that

it was for the best interest of the children, their father returned them to their mother and promised to provide for their upkeep.

8. On 11 May 2012, 13-year old P- ran away from home with her elder brother on the fear that their father was going to use them for ritual. P then started work for a lady at Nembe waterfront, who dismissed her for drinking a bottle of Maltina. As they had nowhere to go, the P- and her brother stayed in front of the shop, only for the girl to be raped and her brother beaten. The alleged violators were apprehended by a Naval Officer who handed them over to the Police at Borikiri Police station. They were never charged for the offences. The Commission ensured that the victims were admitted into the Ministry of Social Welfare children's home in Port Harcourt.

9. On 10 September 2012, Ms. Chioma Iwelumo entered a complaint to the Commission claiming that she and Mr. Solomon Omale had been living together as husband and wife, after a formal engagement ceremony and that they have a baby girl. Ms. Iwelumo alleged that they started having misunderstanding when Mr. Omale began coming home late and drunk and beating her. On 26th March, 2012, he asked her to leave and threw Ms. Iwelumo's things out. On intervention by her sister and their Pastor, he made it known that he was no longer interested in the union. The Commission after series of mediation, and in consideration of the best interest of their child, drew up a memorandum of understanding between the parties to provide for the upkeep of the child. The MOU spelt out the role of both parents in this regard.

Other cases reported / documented

In the period under review (2011-12), there were many reports of child mortality due to childhood disease. According to statistics, childhood diseases remain one of the primary threats to Nigerian children.

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Children under 5 are the most vulnerable, mainly to preventable conditions such as pneumonia, diarrhea, malaria, malnutrition, measles; etc. Nigeria is reported to have about 20.5 million orphans and vulnerable children as a result of HIV/AIDS pandemic and various kinds of crises and disasters in the country.

Adequate policies and legal protections could help prevent these deaths: formal recognition through required birth registration for all children could help build statistics on which to base services and vaccination, honoring the rights of the guardians through other human right principles could help prevent child-exposure, and using a best interests determination when forming policies which will impact a large number of children could help to curb their vulnerability and exposure to exploitation and abuse. Other cases included custody, homelessness, and abuse based on belief in witchcraft.

Cases reported in the news media and by civil society organizations during 2011-12 included:

1. The Child's Right and Rehabilitation Network (CRARN) and Young Humanitas Network petitioned the Esit Eket Divisional Police Headquarters to investigate the abuse and abandonment of 7 year old B-by his father, Mr. Effiong, over an accusation of witchcraft. CRARN had earlier rescued the child when he was 3 from the same treatment, and had thereafter provided him with the necessary medical assistance and reconciled him with his father. All recent efforts at making Mr. Effiong understand the implication of his action against the child had yielded no positive results. According to the victim, his father would tie his legs and hands, hang him from the roof and beat him with wires and sticks every night. Mr. Effiong eventually took B to a strange place at night and left him there.

The matter was charged to court despite pressure from members of the Odoronkit community to get the father released. The presiding judge transferred the case to the family court in Uyo in March 2012. The Commission's zonal office in Port Harcourt has been monitoring the progress of the case.

2. On 8 February, 2012, the *Daily Champion* reported that approximately 400 children were feared dead from lead poisoning in illegal mining activities in Zamfara State. The US based Human Rights Watch (HRW), had reported that research conducted in Zamfara State revealed that children were exposed to lead dust when processing ore in the mines or when miners return home covered with lead dust and interact with them. About 2000 children were said to be in need of treatment. HRW had stated that these deaths were neglected by all tiers of government in the country. At the time of this report, remediation was on going.
3. On 26 May 2012, *The Punch* newspaper reported that the wife of the Ekiti State Governor, Mrs. Bisi Fayemi, rescued a seven year old boy, S-, from the brutality of his father and stepmother reported by a neighbour. The victim's father, Mr. Rufus Fakorede, had allegedly tied S-'s hands and legs and beat him for refusing to run an errand for his wife. Some neighbors witnessed the event and reported it to the office of the wife of the State Governor, urging her to intervene. The neighbors alleged that the father and stepmother routinely maltreated the boy. When the boy was brought to the Governor's wife, he was reported to have lacerations on his body and was treated at the government house clinic by the Medical Director, Dr Samuel Omotoso.

On 24 October, 2012, *The Daily Trust* newspaper reported that C-, a 12-year-old Secondary School student in Awka, Anambra State, died after being flogged by her teacher for failing to do her homework. According to the report, the girl fainted due to the punishment and was rushed to the hospital, where she later died. The Anambra State Commissioner for Education, Mrs. Uju Okeke, ordered the closure of the school as a result of the incident, and the teacher in question was handed over to the police.

On 2 June 2012, 10 year old M-U-N-, was reportedly beaten to a state of coma by Christy Njowunu, her guardian. The matter was reported to Olu-Obasanjo Police station, Port-Harcourt. The matter was charged to court and the court awarded judgment in favour of the victim.

On 6 July 2012, it was reported that 13 year old C was battered by her uncle. According to the report, the uncle beat her because he found a letter in her school bag written by a boy. The uncle was arrested and detained for 4 days before he was released on bail.

On 9 March 2012, M-O-E-, 12 years, reported battery by her aunt. According to the report, the alleged violator used a hot knife to print marks on M-O-E-'s skin for allegedly discussing her with the aunt's rival. The matter was reported to the Special Police Area, Rumoukoro, Obioakpor, Rivers State. The alleged violator was arrested and later released by the Police without being charged to court.

On 24 April 2012, 12 year old I- was battered by his father, Mr. Bruce Moses Jaja. The incident was reported to Borikiri Police

station, Port-Harcourt. Mr. Bruce Jaja, was arrested and detained for 5 days, and released without being charged to court.

9. On 22 February 2012, six children between the ages of 8 to 13 alleged that they were arrested, handcuffed, chained and tortured to extort a confession and subsequently charged to court by men in the Swift Operation Squad (SOS), for alleged trespassing and robbery. When their parents tried to take them home from the police station, they were also arrested, tortured and charged. Police apparently relied on the confessional statement of P-, an 8 year old child, which was obtained under duress to implicate the others.
10. On 23rd April 2012, the Child Protection Network FCT chapter reported to the Commission that Madam Esendu Kurakiri had in her possession children between the ages 2 to 3 years, whom she claimed to have legal fostering authority from a motherless babies home in Aba, Abia State. They further stated that Madam Kurakiri was abusing her 10 ½ year old niece, D, who was in her custody. The matter was first reported to the police, who ensured that the children were removed from Esendu Kurakiri and taken to the Women Trafficking and Child Labour Eradication Foundation and a complaint sent to the Commission. The Commission investigated the matter by inviting all parties and also visiting the motherless babies' home as well as the social welfare department in Aba. There it was discovered that there was a legal fostering arrangement. Though, some minor irregularities were observed in the process. The Commission also confirmed that Madam Kurakiri had enrolled all the children in good schools and was taking proper care of them. She had also concluded all requirements

for full adoption of the two girls. The Commission has been monitoring their progress to ensure their wellbeing.

11. On 6th August, 2012, the Nation Newspaper reported that a 40 year old woman, Mrs. Kuburat Bello, pushed her neighbor's four year old daughter, Happiness Solomon, into a dry hand-dug well. The incident occurred at no 1, Haruna Street, Fadeyi, Lagos, following a quarrel between the alleged violator and the victim's mother. The alleged violator was arrested after the matter was reported at the Fadeyi Police Station. It was thereafter transferred to the State Criminal Investigation Department (SCID), Panti, Yaba, following which she was charged with murder before a Magistrate court. At the arraignment, the Court declined jurisdiction, ordering her remand in prison, pending DPP's advice and transfer of the case to a High Court.
12. On 24th February, 2012, Leadership Newspaper reported that a 17 year old Miss Patricia Youmgho from Amassom, Southern Ijaw Local Government Area of Bayelsa State fled home to an unknown destination to avoid being forced to undergo circumcision. The paper reported that the girl's decision to run away from home followed the death of her younger sister, Joy, after being forced to undergo circumcision on January 15th 2012.

Recommendations

The Commission therefore makes the following recommendations:

To the Federal Government:

- Implement and enforce the Child Rights Act of 2003
- Amend the CYPA (and all state laws implementing the CYPA) to conform to international standards governing juvenile justice issues

To State governments:

- Pass the Child Rights Act of 2003 into law
- Require a birth certificate and registration of all children at birth
- Form and implement strategic policies to address child mortality due to preventable diseases, including but not limited to providing free vaccinations to all children under the age of 5, clean drinking water to all families with children under the age of 5, and free health care to all children under the age of 5.

Chapter Eighteen

18

Environment**Introduction**

United Nations codified environmental law into a single world document referred to as Sockholm Declaration in 1972. Before the codification, there have been national rules and laws regulating the use of the environment. For instance, it can be argued that the first legal rules on environmental issues are pretty old - originating from Roman law rules and also applicable in the Middle Ages in Europe. Admittedly though, relevant international agreements prior to the 1970s were based on restrained national sovereignty over natural resources and were focused basically on boundary waters, navigation, fishing rights along shared waterways.. These laws did not address pollution which were migratory or other ecological problems as it were.

The recognition that the natural environment was fragile and in need of special legal protections, the translation of that recognition into legal structures, and the development of those structures into a larger body of "environmental law" did not occur until about the 1960s. At that time, numerous influences - including a growing awareness of the unity and fragility of the biosphere following mankind's first step into outer space, the Blue Marble;- increased public concern over the impact of industrial activity on natural resources and human health (the 1969 Cuyahoga River fire); the increasing strength of the regulatory state and more broadly the advent and success of environmentalism as a political movement - merged to produce a huge new body of law. Thus, by the

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end of the 20th Century, environmental law had been established as a component of the legal landscape in all developed and developing nations of the world and has become the larger project of international and national laws.

Furthermore, while it is possible to identify early legal structures that would today fall into the environmental law, example, the Common Law recognition of private and public rights to protect interests in land such as nuisance; or post-industrial revolution; human health protections; protection of waterways and use of the sea, the concept of "environmental law" as a separate and distinct body of law is a 20th Century development. Therefore, the growth of international

ary along the coastline due to sea-level rise and related phenomena. Some settlements are known to have already relocated inland from their original sites in response to sea incursion over decades. Population displacement and migration from and to human settlements will occur, from either or both of drought forces in the Northern States and accelerated sea-level rise in the coastal regions. Rises in sea-level will also threaten urban and rural infrastructure facilities in low lying coastal regions. This was the case in Nigeria, where about 34 States in the Federation witnessed severe flooding.

Environment is important to man and any activity that affects the environment affects the human race. This is because we live and carry out our activities on the environment and these needs to be carefully managed in terms of development. Every environmental development must go through an environmental impact assessment. This was made mandatory under section 20 of the EIA Act. In practice, this is far from being enforced in Nigeria. Environmental pollution has its attendant effect both on the lives of the people and the environment. Nigeria is bedevilled with a host of environmental problems, from erosion, oil spill and desertification. The Eastern part of the country is struggling to cope with flooding; the North with desertification and the South with soil and water pollution, due to oil exploration. Tree felling and indiscriminate mining of minerals lead to desertification and erosion. Despite these environmental problems, there has been no concrete effort on the part of the Government both in the States and the Federal level, to check this menace. People use mostly firewood for cooking, as kerosene or cooking gas is out of the reach of the common Nigerian citizen.

Faced with the results of polluting and destructive actions, more people are starting to see that a clean and healthy environment is essential to the realisation of human rights, such as the right to life, health and development. Each human being depends on the environment as the resource base for all life. And where it started with mere linking

acknowledged human rights to cases of environmental disruption, like the Bhopal and Chernobyl disasters, it has become more acknowledged over the years that human rights and the environment are so inherently interlinked that (a clean and healthy) Environment is a Human Right.

At this time there are several regional and international human rights charters on environment, other conventions like the Aarhus Convention, and multiple national constitutions that contain an explicit pronouncement of a human right to (a clean and healthy) environment. And late 2007, the UN General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples, which in article 29 proclaims "Indigenous peoples have the right to the conservation and protection of the environment..."

In Nigeria, the exploration of Oil in the South-South since the discovery of Oil in Oloibiri in 1959 has had mostly a negative impact on the region. The region has seen its environment adversely affected by the activities of multinational oil companies which has resulted in land and water pollution. Oil spills and gas flaring are the two major pollutants in the region. In this report our focus is not only on oil spill as it affects both land and water in communities in the South-South region, where oil exploration is taking place, it also focuses on the problem of illegal mining of mineral going on in the North, leading to pollution and death, felling of trees, over grazing and the effect of desertification.

Since the 1950's, international bodies have been trying to regulate oil and gas extraction, storage and transportation in reaction to the devastating and long-term environmental impacts of oil spills and gas flaring. These environmental impacts, in turn, harm the health, employment, sustenance and social life of humans residing in a spill zone. The United Nations Environment Program and the International Maritime Organization help to implement and enforce a number of international conventions, including the 1990 International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC), the

International Convention on Civil Liability for Oil Pollution Damage, the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. These provisions set out, among other things, that environmental clean up of oil spills should be a national and international priority, that all States should establish policies and procedures to prevent spills, and where possible, to ensure safe and quick remedy and remediation, and to ensure liability with the oil companies responsible for oil extraction.

Extraction in the Niger Delta

Nigeria is the largest oil producer in Western Africa, and is the 13th largest producer of oil world-wide. Since the late 1950's, the majority of the oil and gas produced by Nigeria has been extracted from 9 oil-rich states in the south of Southern Nigeria known as the Niger Delta. This area has also been subject to repeated and severe oil spills both at sea and inland and recent estimates indicate that at little as 10% of oil spills in the Niger Delta have been adequately addressed. The Niger Delta is one of the largest wetland areas in the world, and the local populations depend on the environment and ecosystem for the majority of the employment, subsistence and social needs. These oil spills and the failure to effectively remedy and remediate them are violations of the right to life, livelihood, property, and association, among others.

The National Oil Spills and Detection and Response Agency (NOSDRA), the Department of Petroleum Resources, and the Environmental Protection Agencies at the State and National level are charged with implementing and enforcing a series of laws and policies that govern oil extraction, the most notable being the Oil Pipelines Act, the Petroleum Act, the Environmental Impact Assessment Act and the National Oil Spill Contingency Plan (NOSCP). These agencies and laws are charged with ensuring that oil and gas extraction are lawfully conducted and that any spills are quickly and efficiently addressed.

However, the multiple reports released during this reporting period, including a 2011 UNEP investigation into oil spills in Ogoniland, have alleged that cleanup, when done, is inadequately conducted and that oil affected communities are rarely, if ever, fairly provided remedy. Further, these reports indicate that the negative health consequences of these oil spills and ongoing gas flaring have drastically reduced the life-span and level of health of individuals living in the Niger Delta, have destroyed farmlands, fisheries and mangroves, and have polluted the water and air.

The edgy relationship between the Ogoni people and Shell from the oil boom era in Nigeria was further constrained as a result of a fake report which emerged in August 2010. The report stated that only 10 per cent of the pollution in Ogoniland was caused by equipment failure and Shell's negligence while the rest were blamed on the local people accused of stealing oil and sabotaging pipelines. This action resulted in a high skeptic atmosphere for the Ogoni people and environmental groups. A re-evaluation of results assessment by UNEP on August 4, 2011 emerged showing hydrocarbon pollution in surface water throughout the creeks of Ogoniland which found drinking wells, polluted soils, cancer-causing chemicals in drinking water at a level 900 times above World Health Organisation (WHO) acceptable standards, destroyed fisheries and a high degradation of wetlands leading to an irreparable loss of livelihoods which would take 30 years to remediate validating all complaints by the Ogoni people.

Flood:

Excess water released from Lagdo Dam in northern Cameroun caused the swelling of the Niger and Benue which flooded downstream communities during the rainy season of 2012 (between July 1 and October 31, 2012). The floods from the dam completely submerged affected states and communities which led to loss of property in unquantifiable sums, 7million persons affected with about 2million

Displaced Persons (IDPs) and about 363 deaths were reported by the Nigerian Emergency Management Agency (NEMA); affected communities were spread out in 9 out of 21 local government areas with Ibadan as the most affected with the flood as it was completely submerged, Lokoja the state capital, Bassa, Idah, Omala, Igalamel/Odolu, Ofu and Ankpa, all combined led to the displacement of over 500,000 persons.

Communities known for yam cultivation were completely submerged, the Lagos-Ibadan Highway was totally cut off from the floods, creating a bottleneck which stretched over 10 kilometres and reptiles such as crocodiles and snakes were reported to have attacked the young, old and infirm. Although relief camps were set up for IDPs in Adankolo, Oshogbo and Kabawa by the Kogi State government in collaboration with NEMA, facilities were overstretched and the situation became more dire.

In Cross River state, more than 2,000 homes were inundated by the flood which affected about 20 communities spread over Ikom, Obubra and Biase local government areas of Cross River state. NEMA's analysis state that about 15,000 people were rendered homeless with property loss estimated to worth millions of naira. One of the victims of losses was a 55 year old man and 2 girls aged 12 who went missing and were said to have been swept away by the flood which hit the Ikom community in Biase local government. In Oyo state, farmlands for cassava, yams, maize, melon, cocoa, plantain and banana were completely destroyed.

In Benue state, over 2,000 houses were flooded with 1,579 families displaced and 3 IDP camps across the Benue State capital, Makurdi with the most impacted area being Wadata, Gyado Village and Mu Village. The seepage of excess water emptied into bordering communities of Edo state by the River Niger, local communities experienced major flooding.

which lasted close to 3weeks. With over 30,000 IDPs, destroyed farmlands, forest mangroves, water and aquatic lives, hungered loomed the affected community as sources of economic sustenance were truncated and properties worth millions of naira were also destroyed. Communities affected by the flood included Udaba, Ofukpo, Agbabu, Osemengbe, Anegbete, Udochi, Ukpeko-Oire, and Ifeku Island in Estasko Central.

Community people who had lived all their lives became exiled by the grave flood as they became refugees in other communities and refugee camps. The impact of the flood was overbearing on the social and economic lives of the people.

The story is not different in the North, where farm lands were washed away, houses were destroyed and many people rendered homeless.

Cases reported / documented

While no cases were brought to the Commission during this reporting period, the Niger Delta suffered several oil spills, including:

1. In 2011, an estimated 40,000 barrels of oil were spilled off the coast of the Niger Delta in an area called the Bonga Oil Fields during a transfer to an oil tanker. Shell, the oil company responsible, claims that the oil never reached the shore, but fishermen and communities living inland in the Niger Delta have claimed that their livelihoods, drinking water, and food sources have all been destroyed by this spill.

Chapter Nineteen**Human Trafficking****Introduction**

According to the United Nations in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, human trafficking refers to the:

(a) [...] the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Although it often occurs at local levels, human trafficking is a global phenomenon that must be regulated and addressed at a transnational and international level as well as domestically. This was recognized by the United Nations in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, referred to as the Trafficking Protocol, which entered into force on 25 December 2003. The Trafficking Protocol is the first global, legally binding instrument on

trafficking. The *Trafficking Protocol* not only provides the above definition of trafficking, but also asserts that consent to trafficking is irrelevant and in the case of a child, regardless of the means, an action taken with the purpose of exploitation is trafficking. The *Trafficking Protocol* facilitate international cooperation in investigating and prosecuting trafficking and sets out guidelines to protect and assist human trafficking victims with full respect for their rights as established in the UDHR.

Nigeria as a source, transit country and destination for human trafficking

Trafficking violates most basic human rights, including the right to freedom from inhuman and degrading treatment, right to freedom of movement, right to private and family life, right to physical and mental wellbeing and in some instances right to life. Article 6 of CEDAW provides that State parties shall take appropriate measure, including legislation to suppress all forms of trafficking in women and sexual exploitation. Equally, Section 34 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), provides that every person is entitled to respect for the dignity of his person and accordingly, no person shall be subjected to inhuman or degrading treatment, or held in slavery and servitude or be made to perform forced labour. In an effort to curb trafficking, the Nigerian Government enacted the National Agency for the Trafficking in Persons Act in 2003. This established the Nigerian agency saddled with the responsibility of preventing trafficking, rehabilitating victims of trafficking and punishing traffickers.

In spite of all the legislative and administrative measures in place, Nigeria remains a source, transit, and destination country for women and children trafficked for the purposes of forced labor and commercial sexual exploitation. According to the United States Report on Trafficking

Nigerian gangs' traffic large numbers of Nigerian women into prostitution in the European Nations and EUROPOL has identified Nigerian organized crime as one of the largest law enforcement challenges to European governments. The United Nations Office on Drugs and Crime (UNODC) reported that individual criminals and organized criminal groups often find victims of trafficking through relatives or other persons already known to the victims. To recruit young women, traffickers are reported to give false promises of legitimate work in the country and children are often recruited through their parents with promises of education, training, and a set salary. Traffickers often force victims to debt bondage, particularly victims forced into prostitution. In some cases, traffickers also employed practitioners of traditional magic, or juju, to threaten victims with curses to procure their cooperation. NAPTIP estimated that 90 percent of the girls trafficked through Benin routes were threatened by juju practitioners.

In Nigeria, women and girls are trafficked primarily for domestic labor and commercial sexual exploitation. Boys are trafficked for forced labor in street vending, agriculture, mining, stone quarries, and as domestic servants. There have been reports of religious teachers also trafficking boys for forced begging. A new trend has emerged in domestic trafficking of the sale of babies. Recently, Police raids revealed network of baby clinics, dubbed baby "farms" or "factories" by the media. In May 2012, about 20 teenage girls were rescued by police at a hospital in Lagos, South-Eastern Nigeria, who were kept just for the purpose of breeding children for sale.

Complaints received by the Commission

The NHRC has received solely domestic trafficking complaints to date.

1. On May 13 2012, 9-year-old B-E-E- was seen roaming around the streets of Port Harcourt and brought to the Commission's zonal office in Port Harcourt. During an interview, B-E-E stated that she and others were recruited by an agent who received them from their parents, and they were then brought to a lady in Port Harcourt who changed their names. B-E-E was referred to the Children's Home for shelter where she stayed till November 2012, when she was released to her parents.
2. In August 2012, the Commission received a complaint from a Radio Programme called "Brekele Family Programme" aired on Love FM alleging that a six-month old baby was snatched from his parents by an unknown person. With the intervention of the Commission, in collaboration with NAPTIP and other stakeholders, the culprits were apprehended and the baby was recovered. The recovery of Divine led to the recovery of four other children that had earlier been taken from their parents in a bid to be sold.
3. On May 17 2012, G-O-, 15 years, reported to the Commission that she had been recruited into forced labour by Mrs Onyinyechi Chechina, and that she was often beaten. The Commission reported the matter to the Special Police Area, Rumuokoro, Obiakpor, Rivers State. Mrs. Chechina was arrested but granted bail at 20,000 Naira without being charged to court. G-O- was referred to Ministry of Social Welfare and Rehabilitation Children's Home, where they later mediated and reunited her with her parents.

On 23 April 2012, the Child Protection Network FCT chapter reported to the Commission that Ms. Ezenndu Kurakiri had several children between the ages 2 to 3 years staying with her. Ms. Kurakiri claimed to have legal fostering authority from a motherless babies home in Aba, Abia State. They further stated that Ms. Kurakiri was abusing her 10 ½ year old niece, D-, who was in her custody. The matter was first reported to the police, who ensured that the children were removed from Ms. Kurakiri and taken to the Women Trafficking and Child Labour Eradication Foundation and a complaint sent to the Commission. The Commission investigated the matter by inviting all parties and also visiting the motherless babies' home as well as the social welfare department in Aba. There it was discovered that there was a legal fostering arrangement though some minor irregularities were observed in the process. The Commission also confirmed that Madam Kurakiri had enrolled all the children in good schools and was taking proper care of them. She had concluded all requirements for full adoption of two of the children. The Commission has been monitoring their progress to ensure their wellbeing.

Cases reported / documented

On 12 February 2012, 10-year old A- was seen hawking coconut during school hours on the street of Port Harcourt. According to A, his parents put him under the care of Mrs. Nsima Udo Udom, who had told his parents that she owned a super market in Port Harcourt and that in exchange for his working at the super market after school, she would send him to school in

Port Harcourt. Instead A was made to hawk on the streets. The matter was reported to Railway Police station, Port- Harcourt and Mrs. Udom was arrested. NAPTIP was contacted and through interrogation it was discovered that she had in her care three other children whom she was sending to hawk goods for her on the street. The children were taken from her and sent back to their parents.

Conclusion

As the preceding pages of this report have demonstrated, much work remains to be done to ensure the human rights of Nigerians are respected, protected, and promoted. The period of under review – January 2011 through December 2012 – witnessed human rights violations perpetrated by a variety of State actors across the entire country. Accordingly, this report concludes simply with the recognition of the enormity of the task ahead – a task that no individual or body can tackle alone. The Commission invites fellow human rights advocates, government actors, and all others who believe that Nigerians deserve better, to join their voices and efforts with those of the Commission to take any and all steps necessary to bring an end to government impunity for pervasive human rights violations.

The first step in accomplishing this goal is an honest and open dialogue about the current state of human rights in Nigeria today. This 2011-2012 Report seeks to push forward that conversation by highlighting cases and making recommendations for how greater accountability for gross human rights violations can be achieved.

List of Abbreviations

CBO	Community-based organization
CID	Criminal Investigation Department
CIDT	Cruel, Inhuman and Degrading Treatment
CFRN	Constitution of the Federal Republic of Nigeria
Commission	National Human Rights Commission, Nigeria
CPA	Criminal Procedure Act
CPC	Criminal Procedure Code
CTU	Counter Terrorism Unit
DPO	Divisional Police Officer
DPP	Director of Public Prosecution
DSS	Department of State Security
FCT	Federal Capital Territory (Abuja)
FCID	Force Criminal Investigation Department
IGP	Inspector-General of Police
IPO	Investigating Police Officer
ICCPR	International Covenant on Civil and Political Rights
JTF	Joint Task Force
LAC	Legal Aid Council
MOPOL	Mobil Police
NGO	non-governmental organization
NPF	Nigerian Police Force
PSC	Police Services Commission
SIIB	State Investigation and Intelligence Bureau
State CID	Criminal Investigation Department at the state-level
SARS	Special Anti-Robbery Squad
SOS	Swift Operation Squad
SSS	State Security Services (same as DSS)
UDHR	Universal Declaration on Human Rights



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