



**General Assembly**

Distr.  
GENERAL

A/HRC/11/NGO/49  
9 June 2009

ENGLISH ONLY

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HUMAN RIGHTS COUNCIL  
Eleventh session  
Agenda item 6

**UNIVERSAL PERIODIC REVIEW**

**Written statement\* submitted by Amnesty International,  
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 May 2009]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Nigeria: Implementation of the outcome of the Universal Periodic Review**

Amnesty International welcomes the Nigerian government's engagement with the UN Universal Periodic Review (UPR) and its stated commitment to cooperate in every aspect of the mandate of the Human Rights Council.

Amnesty International calls on the government to accept and implement as many of the recommendations made during the UPR as possible and as a matter of urgency. We ask in particular for the government attention to the following key recommendations:

- **Stop violence against women and implement the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in all states<sup>1</sup>**

Although the Nigerian Constitution provides for equality in law and freedom from discrimination, violence against women remains pervasive, including domestic violence, rape and other forms of sexual violence by both state officials and private individuals.<sup>2</sup> While some states in Nigeria have adopted legislation to protect women from discrimination and violence, almost 24 years after its ratification, CEDAW is yet to be implemented at Federal and State level.

In August 2005, the Federal Government constituted the Committee on the Review of Discriminatory Laws Against Women to review discriminatory legislation. The Committee published its findings in May 2006; however, to date the discriminatory legislation is yet to be repealed or amended.

*Amnesty International urges the government to repeal all laws that discriminate against women, to prohibit all forms of violence against women and to fully implement the provisions of CEDAW in both federal and state legislation.*

- **Improve access to justice<sup>3</sup>**

Amnesty International welcomes Nigeria's statements in the UPR Working Group that it is addressing the issue of delays in the criminal justice system.

Amnesty International research reveals that three out of every five inmates in Nigeria have not been convicted of any offence; they await trial for years in appalling conditions.<sup>4</sup> Few can afford a lawyer and the government-funded Legal Aid Council is unable to provide assistance for everyone who needs this.

*Amnesty International urges the government to improve access to legal aid and to provide adequate resources to the Legal Aid Council to hire more lawyers.*

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<sup>1</sup> Recommendations 16 (Norway; Mexico; Ireland); 18 (Italy; Austria; Ukraine; Qatar) Norway; Ireland) and 19 (The Netherlands, Bahrain, France, Belarus, Malaysia, Viet Nam, Angola)

<sup>2</sup> Amnesty International, Nigeria: Rape the silent weapon, AFR 44/020/2006 (28 November 2006); Amnesty International, Nigeria: Unheard voices, AFR 44/004/2005 (31 May 2005)

<sup>3</sup> Recommendations 21 (Belgium; Mexico; Slovakia) and 25 (United Kingdom, Portugal, France, Germany, Austria)

<sup>4</sup> Amnesty International: Nigeria: Prisoners' rights systematically flouted, AFR 44/001/2008 (26 February 2008).

Many prisoners did not have a fair trial. Patrick Obinna Okoroafor, for example, continues to be incarcerated in Aba prison, Abia State, despite a High Court judgement on 18 October 2001 which pronounced his death sentence to be illegal, null and void. He was only sixteen when he was sentenced to death by a Robbery and Firearms Tribunal on 30 May 1997. He did not have the right to appeal and said he was tortured in police detention.

*Amnesty International urges the government to immediately and unconditionally release Patrick Okoroafor.*

In the past years, several government-established commissions have recommended reforms to improve access to justice.

*Amnesty International urges the Federal Government to implement the recommendations of past commissions and to improve access to justice for all Nigerians. The Federal Government should also review the Prison Act and the Police Act, and ensure that the right to a fair trial is fully guaranteed.*

**- Prevent and prosecute acts of extrajudicial executions, torture and other ill treatment<sup>5</sup>**

During the review, many states expressed their concerns about torture and extrajudicial executions by the security forces.<sup>6</sup> Amnesty International welcomes the government's stated zero-tolerance policy on extrajudicial executions and torture by security forces and looks forward to its prompt implementation. In particular, Amnesty International urges the government to ensure that the relevant provisions of international and regional instruments are reflected in national legislation, to criminalise torture and extrajudicial executions, and to promptly and fully investigate and prosecute persons suspected of having carried out torture or extrajudicial executions.

Over the years, Amnesty International has documented many cases of human rights violations by the security forces in Nigeria. There are consistent reports that the Police Force have executed detainees and people who refuse to pay bribes or during road checks, referring to them as "criminal suspects". In other cases, suspected armed robbers are reported to have been shot during arrest. In addition, the Police Force routinely tortures suspects to extract confessions.<sup>7</sup>

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<sup>5</sup> Recommendations 14 (Benin, Germany) 15 (Ukraine, The Netherlands, Ireland) and 22 (Slovakia, Denmark, Portugal)

<sup>6</sup> These states include Argentina, Benin, Brazil, Italy, Netherlands, New Zealand, Slovakia, Sweden, Turkey, and the United Kingdom.

<sup>7</sup> Amnesty International publications: Nigerian police and security forces: Failure to protect and respect human rights AFR 44/006/2008 (16 May 2008); Nigeria: Prisoners' rights systematically flouted, AFR 44/001/2008 (26 February 2008); Nigeria: Rape the silent weapon, AFR 44/020/2006 (28 November 2006); Nigeria: Abia State police kill 16 'armed robbers', AFR 44/019/2006 (18 August 2006); Nigeria: Fears of human rights violations after troops deployed in Bayelsa State, Niger Delta, AFR 44/006/2005 (8 March 2006); Ten years on: injustice and violence haunt the oil Delta, AFR 44/022/2005, (3 November 2005); Nigeria: Police use of lethal force against demonstrators must be investigated, AFR 44/021/2003 (15 July 2003); Nigeria: Security forces: Serving to protect and respect human rights?, AFR 44/023/2002 (19 December 2002).

*Amnesty International calls on the government to investigate of all cases of human rights violations promptly and impartially and to bring to justice those responsible in accordance with international standards for fair trial.*

**- Adopt a moratorium on executions<sup>8</sup>**

Amnesty International notes the statement by the Minister of Foreign Affairs in the UPR Working Group that Nigeria “continues to exercise a self-imposed moratorium [on the death penalty].” Amnesty International urges the government to formalize this moratorium, as also recommended by Nigeria’s National Study Group on Death penalty (2004) and Presidential Commission on Reform of the Administration of Justice (2007), the African Commission on Human and Peoples’ Rights, and by no less than 10 states in the UPR Working Group.<sup>9</sup> This is also in line with resolution 62/149 and resolution 63/168 adopted by the UN General Assembly in 2007 and 2008 respectively calling upon states which maintain the death penalty “to establish a moratorium on executions with the view to abolishing the death penalty”.

Although Section 33(1) of the Constitution allows for judicial executions, there are no Constitutional provisions making the death penalty mandatory for specific crimes. A moratorium on executions requires a commitment by the Nigerian authorities not to carry out executions, regardless of whether death sentences have been passed.

Under international human rights standards, capital punishment may only be imposed after due process of law. However, weaknesses in the Nigerian criminal justice system mean suspects in capital cases and death row prisoners are regularly denied their right to a fair trial and an impartial appeal process. Recent research carried out by Amnesty International and LEDAP indicates that hundreds of death row prisoners in Nigeria may be innocent.<sup>10</sup> In 2006, at least six death row prisoners were executed without ever having had an opportunity to appeal their death sentence. They had been tried and convicted by Robbery and Firearms Tribunals under the jurisdiction of the military. There continues to be at least 80 prisoners on death row sentenced to death by these tribunals, with no right of appeal. Moreover, there are currently at least 40 juvenile offenders on death row, in violation of international and regional standards and national law which prohibit the imposition of the death penalty on juveniles.

*Amnesty International urges the government to support the recommendations to establish a moratorium on the death penalty and to urgently review all cases of death row inmates who were under the age of 18 at the time of commission of the alleged crime, as well as the cases sentenced to death by military tribunals, seriously ill inmates, including mentally ill and elderly inmates, with a view to commuting their death sentences.*

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<sup>8</sup> Recommendation 13 (The Netherlands, Brazil, Mexico, Slovakia, Italy, Turkey, Sweden, United Kingdom, New Zealand, Azerbaijan)

<sup>9</sup> In November 2008, the African Commission on Human and People’s Rights at its 44th Ordinary Session in Abuja, Nigeria, adopted a resolution calling on state parties to the African Charter on Human and Peoples’ Rights to observe a moratorium on the death penalty. On 18 December 2008, the United Nations General Assembly adopted, by a large majority, a second resolution calling for a moratorium on the use of the death penalty.

<sup>10</sup> Amnesty International and LEDAP, Nigeria: Waiting for the hangman, AFR 44/020/2008; Amnesty International, Nigeria: Prisoners’ Rights systematically flouted, AFR 44/001/2008

- **Abolish legislation that discriminates on the basis of gender or sexual orientation and reject the ‘same gender marriage (prohibition) bill’<sup>11</sup>**

Amnesty International is concerned by the government’s statement in the UPR Working Group, that it was not aware of any ‘Lesbian, Gay and Transgender group’ in Nigeria. This is particularly disturbing in light of the draft ‘Same Gender Marriage (Prohibition) Bill’ currently before the House of Representatives.

The use of laws to imprison individuals for consensual same-sex relations in private is a violation of Nigeria’s international human rights obligations. The draft ‘Same Gender Marriage (Prohibition) Bill’ would introduce criminal penalties for marriage ceremonies between persons of the same sex as well as for persons witnessing or helping to formalize such a marriage. The bill singles out one group of people to be deprived of rights that are guaranteed for all people in the 1999 Constitution. Amnesty International believes that provisions of the draft bill violate the right to freedom from discrimination, to private and family life, to freedom of religion or belief, expression and association.<sup>12</sup> This is in contravention of Nigeria’s obligations under national law and international standards.<sup>13</sup>

*Amnesty International urges the Federal Government not to sign into law the ‘Same Gender Marriage (Prohibition) Bill’ and repeal all legislation that discriminates on the basis of gender and sexual orientation.*

- **Ensure the independence of the National Human Rights Commission<sup>14</sup>**

During the review in the UPR Working Group, several states expressed concern that the National Human Rights Commission (NHRC) is not fully independent of the government.

Indeed, the dismissal of the Executive Secretary in March 2009 after the dissolution of the Governing Council in 2007 and the dismissal of her predecessor in 2006, seriously undermines the independence and authority of the NHRC.

*Amnesty International calls on the government to take all necessary measures, including through legislation, to ensure full independence of the National Human Rights Commission to promote and protect human rights.*

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<sup>11</sup> Recommendation 12 (Canada, Finland)

<sup>12</sup> Amnesty International, Nigeria: ‘Same Gender Marriage (Prohibition) Bill 2008’ violates Constitution, AFR 44/007/2009

<sup>13</sup> Nigeria Constitution, Chapter IV, Fundamental Rights ; the Universal Declaration of Human Rights ; the African Charter on Human and Peoples’ Rights ; and the International Covenant on Civil and Political Rights

<sup>14</sup> Recommendation 4 (New Zealand, Portugal)