

TORTURE AND EXTRAJUDICIAL KILLINGS IN NIGERIA

A Joint Report to the Universal Periodic Review (UPR) by Prisoners' Rehabilitation and Welfare Action (PRAWA) and Network on Police Reforms in Nigeria (NOPRIN)

1. Introduction

Torture, has been a subject of major concern in Nigeria. However, the prevalence of extra judicial killings in recent times has taken an upward swing. Reports have shown the wide spread disregard for human rights in the police force. Amnesty International reported that in 2010, hundreds of people were killed in police custody.¹ The Nigeria Police Force is responsible for hundreds of extrajudicial executions, other unlawful killings and enforced disappearances each year. The majority of cases go uninvestigated and unpunished. The families of the victims usually have no recourse to justice or redress. Many do not even get to find out what exactly happened to their loved ones.

Amnesty International also recorded cases of suspects who were tortured to death while in detention. In other cases, people are victims of enforced disappearances; the police tell the families that they were transferred to a different police station or released on bail, but have no documentation to confirm it.

Nigeria has long ratified the several UN instruments on Human Rights, such as United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since the 28th of June, 2001, but the impact is yet to be felt by the general public.

2. Context of the Report

This report has been prepared jointly by PRAWA and NOPRIN. PRAWA is a non-governmental organization aimed at promoting Security, Justice and Development in Africa. It was established in 1994 and in 1998 it secured *observer status* with the African Commission on Human and Peoples' Rights. PRAWA is also a member of the International Rehabilitation Council for Torture Victims (IRCT)² Network from the Sub Saharan African region working on Torture Prevention and Rehabilitation of Torture Victims. The organization has three major programme components namely: Security and Justice Sector Reform (S & J), Rehabilitation and Social Development

¹ Unlawful Killings and Enforced Disappearances; Amnesty International Report 2011, The State of the World's Human Rights

² For more information visit: www.irct.org

(SDR), and Research and Development Component³. It utilizes the following strategies in the implementation of its Programmes: Training and Capacity Building (TRACAD), Research and Advocacy, Human Rights Monitoring; Rehabilitation, Care and Support Services (RECASS), Community Justice Programme and Engagement (COJUP).

The Network on Police Reform in Nigeria (NOPRIN)⁴ is a network of 46 civil society organizations spread across Nigeria, and committed to promoting police accountability and respect for human rights. It was established in 2000 to provide opportunity for civil society involvement in police reform, and the promotion of safety, security and justice in Nigeria. NOPRIN carries out its mandate through monitoring, field research and investigation, documentation, publication, campaign and advocacy. NOPRIN partners with national, international, governmental and intergovernmental organizations and institutions in implementing its programs aimed at transforming law enforcement institutions and practices in Nigeria.

3. General Legal Framework for Human Rights Protection

The Chapter IV of the 1999 constitution of the Federal Republic of Nigeria, which is a supreme law, sets out the fundamental human rights of the citizens of Nigeria. The provisions of the Constitution are clearly against torture and killing and promote the right to life.

The Federal Government also established the National Human Rights Commission which is charged to deal with matters relating to the protection of human rights as guaranteed by the Constitution, the African Charter on Human and Peoples' Rights, the United Nations Charter and the Universal Declaration on Human Rights and other International Treaties on human rights to which Nigeria is a signatory.⁵

Although Nigeria has ratified the International Covenant on Civil and Political Rights (ICCPR) in 1993, the Convention against Torture (CAT) in 2001 and the Optional Protocol to the Convention against Torture (OPCAT) in 2009 they have not been integrated into the local laws. Nigeria is also yet to recognize the competence of the Committee against Torture to receive communications from individuals under article 22 of CAT. Nigeria has established a National Committee on Torture as its National Preventive Mechanism (NPM) for the prevention of torture at the domestic level in accordance with the obligations of OPCAT. The committee is charged with the duty to receive and consider complaints on torture; conduct visits to places of detention and examine allegations of torture, prevent torture by reviewing the treatment of persons in

³ For more information visit: www.prawa.org

⁴ For more information visit: www.noprin.org

⁵ Section 5 (a) National Human Rights Commissions Act

detention, put in place, a national anti-torture policy. Nigeria is also a State Party to the African Charter on Human and Peoples Rights (ACHPR).

Though there are presently no legal provisions criminalizing torture or providing compensation to victims of torture in accordance with the UN Convention against Torture and extra judicial killings, it is believed that Chapter IV of the 1999 Constitution is encompassing, a notion that has been disproved by the prevalence of torture.

4. Torture, Ill-treatment and extra-judicial executions in Nigeria

In March 2011, PRAWA carried out a research and monitoring exercise on cases of torture, cruel and inhuman and degrading punishment committed by law enforcement agents in Enugu state, Eastern part of Nigeria. This was done with a team of lawyers, psychologists and medical practitioners trained under the Torture Documentation and Redress Scheme (TDRS) Project. The findings are as follows:

- Statistics of the research indicated that out of the 176 victims interviewed, victims of torture ranged between the ages of 13 to 54 years, with young people between the ages of 26- 30 as the most frequent victims of torture in the state.
- Out of 176 victims interviewed only 1 female was identified and interviewed. This was because the other female victims were not willing to reveal their ordeal in police custody.
- Method of torture on the victims include prolonged detention in police custody, gunshot wounds 24.71%, severe beatings with police baton and other dangerous objects 36.21%, burning with hot objects 8.05%, squeezing of testicles and inserting objects into the penis, insertion of nails on feet 1.72%, electric shock, suspension on the tree in different positions 13.22%, cutting with cutlass 12.64% and other forms of torture.
- The Special Anti Robbery Squad (SARS) have police officers who are specially designated to torture crime suspects. Such police officers have an unofficial designation like “OC Torture” (Officer In Charge of Torture), and they have special skills in infringing various methods of torture on their victims⁶.
- The reason they were tortured was to obtain information or confessional statement from them before their trials.

⁶ PRAWA Report on Prisons Monitoring, Investigation and Documentation of Torture Incidence in Enugu State, March 2011.

Extrajudicial executions, other unlawful killings and enforced disappearances in Nigeria are not random. In a country where bribes guarantee safety, those who cannot afford to pay are at risk of being shot or tortured to death by the police. The family of the victims often cannot afford to seek justice or redress, because they cannot pay for a lawyer or the court charges. In many cases, they cannot even afford to retrieve the body. In many cases, detainees wait for weeks or months in police custody to be charged and brought before a court. Amnesty International recorded 29 cases of victims of enforced disappearances and extrajudicial executions who had never appeared before a judge.

5. Key issues of concern

- (a) Systematic torture in police and other centres of detention.**
- (b) Lack of adequate documentation and tracking of all tortured suspects upon reception in prison (from the police).**
- (c) Lack of institutionalised mechanism for compulsory autopsy of all deaths in custody.**
- (d) Lack of comprehensive database of all places of detention, their locations, addresses and the total number of persons in detention.**
- (e) Lack of adequate institutional process of internal and external monitoring and oversight of all detention facilities in Nigeria**
- (f) Torture and inhumane treatment of Mentally disabled person within the criminal justice delivery system including the detention and lack of psychiatric/medical treatment and review of the mentally disabled prisoners (including the 'civil lunatics' who have committed no crime and are only detained because of their mental state rather than being taken to mental health institutions).**
- (g) Lack of provision of adequate rehabilitation services, care and treatment for torture victims by the State.**
- (h) Lack of reporting and documentation of all cases of Torture and Extra Judicial Killings.**

There is no mechanism in place in the constitution or any other law to check and monitor the law enforcement agencies. The absence of CCTV in the 'questioning

room' has afforded the law enforcement agencies the luxury to get away with extra judicial killings and torture.

(i) External Oversight of the Nigeria Police Force

The NPF's myriad failings—to prevent crime, to solve crime, to punish police personnel who engage in crime—are either enabled or exacerbated by the absence of external oversight. In theory, the PSC and the National Human Rights Commission have the power to oversee the NPF and investigate crime committed by its members. But in reality, as *Criminal Force* documents, these bodies are almost wholly ineffective. New policies and procedures are needed to ensure the NPF's accountability.

(j) Internal Control of the Nigeria Police Force

The lack of internal control in the NPF promotes crime by its personnel. In order to repair its reputation and prevent future crimes by its personnel, the NPF must establish internal accountability mechanisms that deter police misconduct and ensure a thorough investigation into allegations of misconduct.

(k) Lack of Reform in the Nigeria Police Force, Prison Service and Other Law Enforcement /Detention Agencies

The Nigerian government has repeatedly expressed willingness to address the problems in the criminal justice system, improve access to justice and reform the Nigeria Police Force. Despite several review panels in recent years, which presented detailed recommendations for improvement, little has been done. A review of the Police Act (1990) began in 2004, but the draft bill has been pending since October 2006. Laws, regulations, and codes of conduct to protect human rights are not enforced.

This has resulted in negative perception of the police force by Nigerians. According to a study, the police force in Nigeria is generally rated as a non-effective organization.⁷ According to the study, the respondents generally believe that the civil society based security operatives are twice more effective than the police, across all the social categories.

(l) Lack of adequate Human Rights Training in the Nigeria Police Force and other officers in-charge of detention facilities in Nigeria

it may be argued that upon recruit, the police officers are not trained on the Human Rights Instruments that must be adhered to. In its drive to increase the size of the force, the NPF has virtually abandoned its recruiting standards, with disastrous results. A presidential committees in 2008 concluded that the NPF “grossly compromised standards and resulted in widespread abuse of established procedure”

⁷ Obioha, E.E. Public Perception of the Role of Nigeria Police Force and Civil Society Based Security Operatives In Urban Crime Management in Nigeria: a case of Onitsha, Anambra State. www.niseronline.org

and became saddled with “a very large number of unqualified, under-trained and ill-equipped officers—in sum an undesirable workforce.”

Police Training and Tactics, Especially Regarding Use of Firearms and Force

Nigerians are injured or killed each year by police ineptitude: NPF personnel are too quick to draw their guns and too cavalier about firing them. At the same time, policing is dangerous work: the NPF acknowledges that at least 930 officers were killed in the line of duty between 2000 and 2006. Clearly, better training is needed to improve the safety of both the civilian population and the officers themselves.

(m) Arrest and detention practices

The NPF’s arrest and detention practices—and the absence of institutional control over them—are central to the pattern of abuse and impunity outlined in this report. Particularly damaging is the “holding charge,” under which arrestees can be remanded into custody without even a minimal judicial investigation into the charges and without any opportunity to challenge the charges against them. Because no court is seized of the charges against such persons, the police have a nearly unfettered ability to detain them indefinitely; the average length of pretrial detention in Nigeria is three years and 10 months. The Nigerian Bar Association has identified the holding charge as a gateway to serious abuse.

6. Recommendations

- (a). Provision of adequate funds for rehabilitation services, care and treatment of torture victims.**
- (b). Integration of the treatment of torture victims into public health delivery service.**
- (c) Compulsory autopsy of all deaths in custody and sanction of all identified perpetrators.**
- (d). Integration of Torture documentation and redress in all medical, law and psychology training institutions.**
- (e). Integration of human rights training especially prevention of torture, inhumane and degrading treatment in all law enforcement and detention agencies locations including training institutions for the police, prison officers, State Security Services, etc.**
- (f) . None admission of ‘civil lunatics’ to prison custody and the provision of adequate and free treatment to all mentally disable persons within the criminal justice system including the ‘criminal lunatics’ by the State through the Ministries of Health and/or Interior at the Federal level as well ensure the provision of complementary support at the state level by the State Ministries of Health, Social Welfare and related agencies.**

- (g) . Access to all places of detention by NGOs and family members of the detainees and their respective legal counsel.**
- (h) . Provision of adequate investigation and forensic equipment for law enforcement agencies and the ABSOLUTE PROHIBITION of the use of torture to extract confessional statements from suspect.**
- (i) . Payment of full compensation to all torture victims by the perpetrator (officer and his/her agency).**
- (j) . Review and modification of the lunacy law applicable in the various States of the federation as well as quick passage of the Mental Health Bill and the Torture Bill at both the State Legislature and the National Assembly.**
- (k). Compulsory documentation of all physical bruises and injuries on every detainee upon reception in prison including the name, rank and signature of the Law Enforcement Officer presenting such a person to be admitted in prison custody certifying the presence of the physical bruises and injuries.**
- (l) Support to NGOs promoting prevention of torture and providing Rehabilitation for Torture Victims by the Nigerian State (including through the provision of financial support as well as enabling legal and operational framework to aid the work of these NGOs).**
- (m). Establishment of inter-agency national monitoring, documentation and report mechanisms for reporting misconducts by the police and other law enforcement agencies.**
- (n). Maintain an effective internal affairs unit that can investigate specific complaints, seek out misconduct, and use data to identify patterns of misconduct and problem officers amongst law enforcement and agencies with detention facilities, and justice institutions generally.**
- (o). Establish and maintain a publicly accessible national register of all deaths in NPF custody or as a result of contact with NPF personnel as well as those that occur in other detention facilities or as a result of contact with other law enforcement officers.**
- (p). Establish a system to record and track all detainees from the point of arrest until their case is adjudicated.**
- (q). Revise recruiting and vetting processes to ensure only persons with clean criminal records, adequate experience and/or preparation, and appropriate temperament are recruited as police officers.**
- (r) . Improve police-community relations and prevent police abuses by implementing an effective community policing strategy across the country.**

- (s). Improve firearms training, including teaching defensive and preventive tactics. These training should aim at reducing the likelihood of police drawing their guns unnecessarily, while increasing officer safety.**
- (t) . Conduct a formal review of all NPF firearms discharges, regardless of whether anyone was hit. This review should be designed not only to determine whether wrongdoing occurred but to identify and then correct gaps in training, supervision, equipment, or policy which contributed to the shooting.**
- (u). Maintain standardized and accurate records concerning arrests, detention, any injuries or deaths in custody, or firearms incidents for all police stations and detention facilities, without exception. These records should be submitted annually to both the National Assembly, National Human Rights Commission and the Media as well the respective institutions including and the Police Service Commission and should thereafter be publicly accessible.**
- (v). Adopt all Legislative Measures to Bring Nigeria into Alignment with International Human Rights Norms.**
- (w). Ratification of the First Optional Protocol of the International Covenant on Civil and Political Rights, accepting the right of individual petition to the Human Rights Committee under the Covenant.**

- (x). Full implementation of the provision of the Optional Protocol to the UN Convention on Torture, Cruel, Inhumane and Degrading Treatment or Punishment (already signed and ratified by Nigeria) including ensuring the funding, independency and effectiveness of the State established National Preventive Mechanism (The National Committee on Torture Prevention) as well as strengthening other platforms that will strengthen the National response to prevention of torture such as the work of the National Human Rights Commission and NGOs in this regard.**

- (y). Establishment of comprehensive database of all places of detention, their location/addresses and persons detained therein and ensuring the compliance of these places of detention to International Standards for Treatment of Detainees and Prisoners.**