

(1) Submitting Organisation

The International Centre for Trade Union Rights (ICTUR) was founded in 1987 in order to defend, extend, and raise awareness of trade union rights and their violations worldwide. ICTUR was founded in response to ‘an attack on trade union rights by transnational employers’ and ‘to take up the struggle for liberation from neo-colonialist and transnational corporation exploitation’. ICTUR is a network of unions, lawyers and human rights organisations.

ICTUR has consultative (roster) status with the UN ECOSOC and it is accredited to the ILO Special List of INGOs, since 1993. ICTUR’s main activities include monitoring labour rights, letter writing, trial observations, research and publishing. ICTUR provides information to international human rights processes and assists trade unions in this work. ICTUR publishes: *International Union Rights* journal (since 1993, 4 editions per year); the *World Map of Freedom of Association* (5th edition, 2017); and the reference book *Trade Unions of the World* (7th edition, 2016).

(2) Our concerns

Our primary concerns with respect to trade union rights in Nigeria are:

- **The killing of at least four trade unionists since 2016, including Okaye Igali (2018), Mallam Abdulmmini Yakubu (2017), and Aliyu Abdullahi Ubugadu and Rabi Muhammad Hamza (2016)**
- **Arrests of trade unionists**
- **Impunity and failure to investigate or respond to serious violations**

We are also concerned by the recent death of another trade unionist, which appears to us to require investigation, and by several barriers to the exercise of trade union rights, including sectoral and other bans on organizing, and bans on strike action. For many years a proposed collective labour law overhaul has promised to address some of these issues, but it has languished.

(3) International Human Rights Obligations

The Universal Declaration of Human Rights makes it clear that “everyone has the right to form and to join trade unions for the protection of his interests” (Article 23(4)). In addition, under various international treaties, Nigeria has accepted further obligations to implement and respect trade union rights. Nigeria has additionally been a member of the International Labour Organization (“ILO”) since 1960, and has ratified 40 international labour Conventions including ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948), and ILO Convention No. 98 on the Right to Organise and Collective Bargaining (1949).

In 1993, Nigeria ratified both the International Covenant on Economic, Social and Cultural Rights (“CESCR”) and the International Covenant on Civil and Political Rights (“CCPR”). The CESCR obliges State parties to ensure the right to form and join trade unions of their own choice, including at national and international level. It further states that trade unions have the right to function freely and to take strike action (Article 8). The CCPR stipulates that, “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

Further protection for the principles of freedom of association is affirmed by important relevant regional human rights instruments, including the African Charter (Article 10), ratified by Nigeria in 1983, and the Constitution of the Economic Community of West African States (Article 40), which Nigeria joined in 1975.

(4) Previous UPR cycle

Within the previous UPR cycle:

There were calls for Nigeria to **improve its investigation of and response to political violence**, including from Sweden to 'take all necessary measures to put an end to extrajudicial killings, investigate all reported cases, and ensure that all suspected perpetrators are brought to justice' (A - 135.68)¹ and from the UK to 'investigate all reports of extrajudicial killings in an independent and transparent manner and commit to bring to justice members of the security forces found to have been involved in such violations' (A - 135.70)². Both of these recommendations were accepted by Nigeria.

Several States urged Nigeria to **improve oversight of the police and security services** in relation to violence and repressive actions against civilians, to strengthen training for the security services and to ensure accountability of the security services (A - 135.69, A - 135.71, A - 135.75, A - 135.79, and A - 135.121)³. Spain called on Nigeria to 'amend article 33 of the Constitution and order 237 on the police force to ensure that its interpretation does not allow the lethal use of force by the security forces in circumstances other than those enshrined in international law, and developed in the United Nations basic principles on the use of force and firearms by officials (A - 137.7)⁴. All of these recommendations were accepted by Nigeria. Amnesty International noted that 'killings by police and deaths in police custody were rarely adequately investigated and there was often no action to hold police officers to account'⁵, while CIVICUS said that 'human Rights Defenders remained at risk of torture, intimidation and abuse by the Police acting with impunity'⁶.

Others called for **improvements to trade union rights**. The USA called on Nigeria to 'amend the trade union act in order to guarantee freedom of association and the effective recognition of the right of collective bargaining' (A - 137.31)⁷. This recommendation was accepted by Nigeria. CIVICUS called for an environment conducive for members of labour unions to negotiate fair working conditions and embark on their constitutional right to protest for improved employment conditions and increases in wages⁸. In accepting recommendation A – 137.31 Nigeria said that 'there were no restrictions in the formation or activities of Trade Unions in Nigeria. Trade Unions will continue to exercise their mandate fully and freely'⁹.

(5) Threats and Assassinations

The political murder of trade unionists is a very rare or unknown occurrence in most countries of the world, but it is not unknown in Nigeria, and in recent years an unusually high number of incidents have been reported, attracting concern internationally. This situation makes clear that existing international and domestic protections and enforcement are currently insufficient to protect trade unionists in Nigeria from anti-union violence and intimidation. These cases include:

¹ Report of the Working Group on the Universal Periodic Review, Nigeria, (16/12/2013), A/HRC/25/6

² Report of the Working Group, UPR (2013)

³ Report of the Working Group, UPR (2013)

⁴ Report of the Working Group, UPR (2013)

⁵ Stakeholder Report for the Universal Periodic Review of Mexico, 2013, Amnesty International

⁶ Stakeholder Report for the Universal Periodic Review of Mexico, 2013, CIVICUS

⁷ Report of the Working Group, UPR (2013)

⁸ Stakeholder Report for the Universal Periodic Review of Mexico, 2013, CIVICUS

⁹ Report of the Human Rights Council on its twenty-fifth session, 27 May 2014, A/HRC/25/2

- The murder of union leader Mallam Abdulmmini Yakubu ("Yakubu") on 1 November 2017. Yakubu was Chairman of the Kogi State branch of the Non-Academic Staff Union of Secondary Schools (NASU) at the Science and Technology Education Board (STEB), and was involved in negotiations with the Kogi government regarding strike action of non-academic university staff in the state.
- On 9 February 2018, the assassination of Okaye Igali, the Southern Ijaw branch Chairman of Nigerian Union of Local Government Employee (NULGE), in Bayalesa State. The attack was initially confirmed as a premeditated murder although no details regarding suspects or arrests have been publically reported.
- The week prior to the killing of Mr Okaye Igali another local NULGE leader Chairman Tajudeen Alabi, based in Osun State, was reported to have died on 2 February, when his home caught fire and burned while he was sleeping inside. Although media reported that this was simply an unfortunate accident, our local sources were unable to confirm if the death had at any stage been properly investigated or treated as suspicious. We note that a senior civil servant in Osun State was kidnapped and murdered some months earlier.
- On 29 July 2016 two civil servants Aliyu Abdullahi Ubugadu and Rabiuh Muhammad Hamza – both members of the Nigerian Labour Congress (NLC) – were shot dead by police outside the gates of Nasarawa State Government House, while participating in a protest against an arbitrary 50 percent pay cut and threats to dismiss and replace striking workers. Two other protestors – Musa Umar Saliu and Hajiya Sa'adatu Muhammad Agya – were also seriously injured in the shooting.

(6) Arrests

Nigeria's Constitution provides for the entitlement to free assembly and association with other persons, in particular to "form or belong to any political party, trade union, or any other association for the protection of his interests"¹⁰. In reality, trade union leaders can nonetheless be subject to arbitrary arrests during or arising from union activities. For example:

- on February 15, 2018, Nigerian police stormed the homes of two leaders of the University of Lagos chapter of the Senior Staff Association of Nigerian Universities (SSANU) and arrested them. The arrests came in the midst of labour unrest between non-academic staff and University management over the sharing of funds disbursed by the federal government for the payment of entitlements in 2017.
- During previous labour unrest in June 2016, eight leaders of the National Labour Congress (NLC) in Oyo State were arrested by the police on charges of disruption of public peace and vandalism of public property for organizing a strike against the planned privatisation of public schools in the state.

(7) Barriers to the right 'to form and join organisations'

Nigeria's *Trade Unions Act* (the "Act") creates institutional barriers to the establishment, operation, and maintenance of trade unions.

- Under the *Act*, a trade union cannot operate until it has been "registered". Section 3(2) stipulates that registration of a union must be approved by the Minister, and approval is based on "his being satisfied that it is expedient to register the union", leaving the

¹⁰ Constitution of the Federal Republic of Nigeria. 1999, Article 40

provision open to arbitrary and unjust application.

- A further barrier to unionization is section 3(1) of the *Act*, which requires a minimum of 50 members for the registration of a trade union thus effectively removing the right to organize from employees of smaller employers. The *Act* additionally prohibits the registration of a trade union in a place where a trade union already exists, and the Minister has the authority to regroup existing trade unions where he deems it expeditious.
- Blanket bans prohibit organising in a number of occupational sectors and state-run companies: not only the Army, Navy, Air Force, and Police, but also the Customs Services, the Immigration Services, the Prison Services, the Customs Preventive Service, the Security Printing and Minting Company Limited, the Central Bank of Nigeria, Nigerian Telecommunications Limited, and 'every Federal or State government establishment the employees of which are authorised to bear arms', and further 'in such other establishments as the Minister may, from time to time, by order specify' (Section 11).
- Under the Ministerial power established by Section 11, firefighters' organising rights are also denied by the operation of the Trade Unions (Prohibition) (Federal Fire Service) Order.
- Membership or holding office is also prohibited for managerial and supervisory staff, if it will lead to a conflict of loyalties to either the union or management (section 3(3), *Trade Unions Act*).
- Any unregistered trade union, and any official or member thereof, involved in an act of organising is guilty of an offence (section 2(3)).

(8) Strike bans and fines

The Trade Disputes Act gives the Minister broad rights to replace strike action with conciliation or arbitration (Section 18(1)). Any worker who takes part in a strike in connection with any trade dispute where the Minister has ordered conciliation or arbitration is guilty of an offence, and liable to a fine or imprisonment for a term of six months (Section 18(2)).

Strikes are also repressed by the authorities, whether by action or the issuing of statements:

- On 10 January 2018, the Kaduna State governor together with the state commissioner of police threatened the Nigeria Labour Congress (NLC) with sanctions over solidarity protests in Kaduna State.
- On 19 July 2017, the Kogi State governor banned the activities of the Academic Staff Union of Universities (ASUU) at Kogi State University, following the union's refusal to call off a strike. The governor ordered the striking lecturers to go back to work immediately or lose their jobs.
- On 21 June 2017, the Kogi State government recruited 230 healthcare workers, including medical doctors, during a strike involving the Nigerian Medical Association (NMA), undermining the rights of striking medical workers.

(9) Context and analysis

ICTUR notes the context in which this political violence has erupted. The on-going question of devolution of powers to State level provides a context for friction and concern surrounding state

budgets. We recall that State budget matters have particular relevance for teachers and civil servants, and we note that it is teaching and civil service trade unionists who seem to be at the brunt of this wave of political violence. We note that Nigeria is not a country in which political murders of trade unionists are commonly reported. However, we are profoundly concerned by the apparent surge in these cases being reported. In order to address the problem of escalating violence Nigeria must act quickly so as to bring its legislation and practice into conformity with the minimum international standards on the protection of freedom of association.

On the question of the right to form and join trade unions in the various sectors within which that right is denied in Nigeria, the ILO's Committee on Freedom of Association (CFA) has stated clearly that: Civilian staff in the armed forces, prison staff, customs officials, Managerial and supervisory staff¹¹, and 'all workers in the banking sector'¹² should enjoy the right to form and join trade unions. In its 2016 *Report* the ILO's Committee of Experts on the Application of Conventions and Recommendations called on Nigeria to act to clarify that the minimum membership threshold for forming a union does not apply at the enterprise level¹³.

On the arrest of trade unionists, generally, the CFA has emphasized that: 'no one should be deprived of their freedom or be subject to penal sanctions for the mere fact of organizing or participating in a peaceful strike'¹⁴, and that 'the arrest, even if only briefly, of trade union leaders and trade unionists, and of the leaders of employers' organizations, for exercising legitimate activities in relation with their right of association constitutes a violation of the principles of freedom of association'¹⁵.

And on the duty to protect trade unionists from physical harm, and on the obligation to ensure a robust response to the murder of trade unionists, the CFA has found that: 'the rights of workers can only be 'exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected'¹⁶. The Committee has further noted that an independent judicial inquiry should be instituted immediately to investigate assaults on the physical or moral integrity of individuals, in order to determine responsibility, punish those responsible and prevent repetition¹⁷. Failure to hold guilty parties to account creates a culture of impunity, 'which reinforces the climate of violence and insecurity, and which is extremely damaging to the exercise of trade union rights'¹⁸.

(10) Recommendations

The submitting organisations call on Nigeria to:

Killing and suspicious deaths

- Establish a prompt, effective, and independent investigation into the killing of Okaye Igali (2018), Mallam Abdulmini Yakubu (2017), and Aliyu Abdullahi Umbugadu and Rabi Muhammad Hamza (2016)
- Investigate the death of Tajudeen Alabi (2018)
- Identify the perpetrators and ensure that they are brought to justice

State security and policing of demonstrations

¹¹ *Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, Fifth Edition, 2006, paras. 216 – 253

¹² *Digest*, para. 896

¹³ *Report of the Committee of Experts on the Application of Conventions and Recommendations*, 2016, p99

¹⁴ *Digest*, para. 672

¹⁵ *Digest*, para. 62

¹⁶ *Digest*, paras. 42-45

¹⁷ *Digest*, paras. 46, 50, 184, 191

¹⁸ *Digest*, para. 52

- Fully implement recommendation A - 137.7 from Spain – accepted in the 2013 UPR – on the ‘lethal use of force by the security forces’
- Bring all relevant legislation on freedom of assembly fully in conformity with international human rights standards and ensure that these ambitions are implemented in practice by the police and security services
- Ensure that public officials understand and respect the principles of freedom of association and assembly

Registration and legal status of trade unions

- Fully implement recommendation A - 137.31 of the USA – accepted in the 2013 UPR – to ‘amend the trade union act in order to guarantee freedom of association and the effective recognition of the right of collective bargaining’
- In order to meet this goal, make appropriate revisions to Sections 2(3), 3(1), 3(2), 3(3) and 11 of the Trade Unions Act and associated legislation

Law on industrial action and strikes

- Fully implement recommendation A - 137.31 of the USA – accepted in the 2013 UPR – to ‘amend the trade union act in order to guarantee freedom of association and the effective recognition of the right of collective bargaining’
- In order to meet this goal, make appropriate revisions to Sections 18(1) and 18(2) of the Trade Dispute Act and associated legislation

Implementation and consultation

- seek the assistance of the ILO and other relevant UN agencies, including the UNHCHR, in making amendments to domestic law and practice
- plan and implement the above reforms in full consultation with the national trade union centres NLC and TUC and their affiliated trade unions, and with national human rights institutions and NGOs