

|   |   |  |
|---|---|--|
| AFRICAN UNION   |  | UNION AFRICAINE  |
| <b>الاتحاد الأفريقي</b><br>African Commission on Human & Peoples' Rights  |   | UNIÃO AFRICANA<br>Commission Africaine des Droits de l'Homme & des Peuples |
| 31 Bijilo Annex Layout, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (220) 4410505 / 4410506; Fax: (220) 4410504<br>E-mail: <a href="mailto:achpr@achpr.org">achpr@achpr.org</a> ; Web <a href="http://www.achpr.org">www.achpr.org</a> |   |  |

## **Forty-Fourth Ordinary Session**

**10 - 24 November 2008, Abuja, Nigeria**

### **Consideration of Reports submitted by States Parties under Article 62 of the African Charter on Human and Peoples' Rights**

#### **Concluding Observations and Recommendations on the Third Periodic Report of the Federal Republic of Nigeria**

#### **I- Introduction**

1. The Federal Republic of Nigeria (Nigeria) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter) having ratified it on 22 June 1983.
2. Nigeria submitted its First Report to the African Commission on Human and Peoples' Rights (the African Commission) in 1990 which was considered during its 13<sup>th</sup> Ordinary Session in April 1993 and its Second Report was submitted in 2004 and considered during the 40<sup>th</sup> Ordinary Session in November 2006.
3. The present Report which covers the period from 2005 to 2008, which is Nigeria's Third Periodic Report, was submitted to the Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) on 3 October 2008 and was examined by the African Commission during its 44<sup>th</sup> Ordinary Session held from 10 to 24 November 2008.

4. The Report was presented to the African Commission by Mr Alhaji Abdullahi Yola, Solicitor General and Permanent Secretary of the Federal Ministry of Justice, and Head of the Delegation of Nigeria. The Report highlights the developments that have occurred in the implementation of the country's obligations under the African Charter since its last Periodic Report.
5. The present Concluding Observations highlight the positive aspects identified in the Report, outlines areas of concerns based on the content of the Report as well as the answers and information given during the presentation of the Report. Finally, it provides recommendations taking into account the dialogue that ensued from the examination of the Report.

## **II- Positive Aspects**

The African Commission:

6. Welcomes the timely presentation of its Periodic Report by Nigeria in accordance with Article 62 of the African Charter and the fact that both the format and presentation of the Report, are in conformity with the African Commission Guidelines for the Preparation of Periodic Reports.
7. Appreciates the involvement of relevant stakeholders, including government agencies, human rights Non- Governmental Organisations (NGOs), legislators and the public at large in the preparation and writing of the present Report.
8. Appreciates the quality of the Report and the constructive dialogue it had with the Nigerian delegation, comprised of government officials directly involved in the implementation of the African Charter, which allowed for a fuller assessment of the State Party's compliance with its obligations under the African Charter. The African Commission also welcomes the positive reactions to the suggestions and recommendations made during the discussion.

9. Welcomes the additional information and answers to the questions provided by the Delegation of Nigeria during the examination of the Report, and further welcomes the undertaking made by the Delegation to provide as soon as possible, answers to those questions and additional information which were not immediately available, as well as to include such information in its next periodic report to the African Commission.
10. Notes with appreciation, the fact that Nigeria is the only Common Law country in Africa, to have domesticated the African Charter in its entirety by the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act in 1983.<sup>1</sup>
11. Recognises that since the examination of Nigeria's 2<sup>nd</sup> Periodic Report in 2006, at its 40<sup>th</sup> Ordinary Session, several measures have been taken to enhance the enjoyment of human rights in the country. This includes amongst others, the adoption of legislation, policy measures and judicial and institutional interventions such as: the reform of the administration of justice policies, prison decongestion and reform initiatives, the National Gender Policy and other legal reforms to prevent discrimination against women.
12. Also appreciate the development of rich human rights jurisprudence by the judiciary and in particular, the use of the provisions of the African Charter in settling human rights disputes in the country.
13. Welcomes the current efforts by the State Party to amend Chapter two of its Constitution to allow for the justiciability of social and economic rights, which are presently non-justiciable. It also welcomes the decision by its judiciary, giving effect to the intent and purpose of the provisions of Chapter two of the Constitution despite its present status as non-justiciable rights.

---

<sup>1</sup> CAP 10 Laws of the Federal Republic of Nigeria 1990.

14. Also welcomes the establishment in September 2008, of the Ministry of the Niger Delta and other recent efforts to engage in dialogue with representatives of communities in this region to prevent armed activities, the development of a master plan for the holistic, progressive and accelerated development of the region as well as ongoing programmes tackling human development issues, with the overall aim of achieving gradual peace and meaningful cooperation in the Niger Delta region.
15. Further welcomes the efforts by the Government of Nigeria to amend the statute establishing the National Human Rights Institution- the Nigerian National Human Rights Commission (NNHRC) in conformity with international human rights standards. In this regard, the African Commission welcomes proposed measures to guarantee the independence of this body through measures such as direct funding from the Consolidated Revenue Fund, and the procedure for removal from office of Commissioners. In particular, the introduction of provisions ensuring the effectiveness of the NNHRC, by empowering it to summon individuals and public bodies before it, as well as creating a mechanism for the enforcement of its decisions are most welcome.
16. Recognises the creation of a Central Fund by the Attorney General of Nigeria, to address the inadequacies in the enforcement of monetary compensation awarded in favour of victims of human rights violations perpetrated by the Government or any of its agencies. The African Commission further recognises with appreciation, the substantial budgetary allocation to this fund by the Government, the composition of the committee established to administer the fund as well as the recent payment of compensation to victims of human rights abuses from this Central Fund.
17. Notes the inauguration of the National Committee on the Death penalty, to inter alia, make recommendations on the future of the death penalty in

Nigeria. The African Commission further notes the recent pardon of two individuals on death row by the President of Nigeria and the information it has received that no death sentence has been carried out in the Country since 2006.

18. Welcomes the steps taken by Nigeria to improve the rights of children by enacting the Child's Right Act of 2003 which amongst other things: establishes a minimum age for marriage, imposes an obligation on the Government of Nigeria to uphold the right of every child to free, compulsory and basic education, requires parents and guardians to ensure their child or ward attends and completes primary and junior secondary education and the right of every female child who becomes pregnant before completing her education to continue with her education after delivery. The African Commission further welcomes the provision of the Act prohibiting the imposition of the death penalty against children.
19. Notes the ratification and domestication of all core labour standards of the International Labour Organisation (ILO) in the work place and the establishment of Labour Offices in each State of the Federation for the effective implementation of these standards. The African Commission further notes the development of the National Workplace Policy on HIV/AIDS that provides rights based guidelines to the Government, employers and employees for protecting the right and dignity of workers infected by HIV/AIDS.
20. Appreciates the due attention paid to the family as the basis of the Nigerian society, by amongst other things providing support to single parents as well as the codification of the Muslim family law.

### **III- Areas of Concern**

While recognizing the efforts of Nigeria to promote and protect human rights and to

create awareness on the principles and provisions of the African Charter, the African Commission remains concerned:

21. That the public at large is not sufficiently aware of the African Charter and the work of the African Commission.
22. About the poor level of female representation in all levels of government, particularly in the executive and in the legislature of the Federation and of States. While noting the increase in the number of female appointees to the judiciary, the African Commission remains concerned that not enough has been done to harness through affirmative action, the potential of Nigerian women willing and available to contribute to the social, economic and political development of the Country.
23. About the lack of concrete legislation at the national level on gender based violence, Female Genital Mutilation (FGM), and discrimination against women despite ratification by Nigeria of both regional and international human rights treaties on the rights of women.
24. About the high incidence of infant and maternal mortality, especially in the Northern parts of the Country.
25. That despite decisions by regional and domestic institutions on the activities of trans-national corporations operating in the Niger Delta, there appears to be no change in their operations in terms of the respect for the right to food, shelter and the environment of the people in that region, therefore pointing to a lack of effective monitoring mechanism by the Government.
26. About the evictions and demolition of houses and buildings in various parts of the Country. The African Commission is particularly concerned about the failure of the Government to provide details of the measures it has taken to

ensure that these evictions complied with international human rights standards and specifically that adequate compensation was paid to the victims of such eviction.

27. About the recent closure of an independent television station for a broadcast about the imminent resignation of the President of Nigeria, which according to the Delegation had the potential to undermine State security.
28. That the national electoral body- the Independent National Electoral Commission, with respect to issues such as its composition and the appointment and termination of office of its Commissioners, does not sufficiently guarantee its independence.
29. About the existing barriers to access to justice identified in the Report, such as; the high cost of litigation, inaccessibility of courts due to their location in mostly urban areas and exacerbated by the poor transportation system as well as the complex nature of the judicial process.

#### **IV- Matters for Follow-Up from the Report**

30. The African Commission welcomes the undertaking made by the delegation of the State Party to furnish it with additional information and updated statistics on issues the African Commission sought further clarification. These include:
  - a. A detailed inventory of NGOs and CSOs operating within Nigeria, the nature of their relationship and extent of the cooperation between these organisations and the Government.
  - b. The status of the various draft Bills currently before the National Assembly such as the National Human Rights Commission

(Amendment) Bill, Prison Reform Bill, Elimination of Violence in Society Bill, the Anti-Discriminatory Laws and Practices in Nigeria Bill.

- c. The status of the Female Genital Mutilation (FGM) legislation which according to the State Party has been adopted by various States of the Federation.
  - d. Statistical data on the level of women participation in all spheres of Government.
  - e. Statistical data on the prevalence of FGM in all States of the Federation.
  - f. Detailed information on prisons and conditions of detention in the country.
  - g. A copy of the decisions of the Court of Appeal and the Supreme Court in the General Sani Abacha v. Chief Gani Fawehimi case.
31. The African Commission also requires information on the extent to which the content of the Freedom of Information Bill currently before the Senate, complies with the relevant principles in the Declaration of Principles on Freedom of Expression in Africa.
32. The African Commission will also appreciate Information on Government actions to provide assistance for the resettlement of persons displaced by the bomb blast which occurred on 27 January 2002 in Lagos State.
33. As promised by the delegation, the African Commission expects to receive a detailed evaluation of the impact and effectiveness of the two national anti-corruption agencies: The Economic and Financial Crimes Commission (EFCC) and the Independent and Corrupt Practices Commission (ICPC).

34. Finally, the African Commission desires information on whether the current National HIV/AIDS Policy provides the necessary medical care to prevent mother to child transmission of HIV/AIDS.

## **V- Recommendations**

The African Commission recommends that the Government of Nigeria should:

35. Ensure that the provisions of the African Charter as well as the work of the African Commission is publicised in both rural and urban areas in the Country. In this regard, it encourages the State Party to take steps to translate and make available the African Charter in as many local languages as possible.
36. Make the declaration under Article 34 (6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, allowing individuals to have standing and bring cases before the African Court.
37. Take positive steps to create an effective affirmative action mechanism to guarantee female participation in all spheres of government, and also enact at the Federal level, legislation prohibiting FGM, violence and discriminatory practices against women.
38. Introduce appropriate policies to address the high incidence of infant and maternal mortality, especially in the Northern part of the Country.
39. Ensure that its electoral laws conform to the relevant principles in the Declaration of Principles of Freedom of Expression in Africa in its entirety and also ratify the African Charter on Democracy, Elections and Governance.
40. Establish an effective monitoring mechanism for the implementation of

decisions of regional and domestic bodies on violations of the rights in the Niger Delta, especially those against trans-national corporations.

41. Take the necessary steps to amend its constitutional provisions sanctioning the death penalty and instead provide for its abolition.
42. Ensure the enactment into law of the various draft Bills before its National Assembly, including: the Legal Aid Council Act (Amendment) Bill 2007, Nigeria Police Act (Amendment) Bill, 2007, Prisons Reform Bill, the Elimination of Violence in Society Bill, and the Anti-Discriminatory Laws and Practices in Nigeria Bill.
43. Take steps to ease the difficulties of access to justice occasioned by the high cost of litigation and the complex court processes, by measures such as the provision of mobile courts, introduction of para-legal officers in the judicial system and the use of interpreters and local languages in Courts.
44. Inform the African Commission of the steps it has taken to address the areas of concern, as well as how it has implemented the recommendations in this Concluding Observations.

**Adopted at the 44<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights held from 10 to 24 November 2008, Abuja, Federal Republic of Nigeria**