ACTIVITY REPORT OF COMMISSIONERS:
COMMISSIONERNER JULIENNE ONDZIEL-GNELENGA

(Item 7b)
THE SPECIAL RAPPORTEUR'S PROMOTIONAL MISSION TO NIGERIA

The Special Rapporteur conducted from 20TH February to 2ND March 2001 a promotional and information mission on women's rights in The Federal Republic of NIGERIA, particularly in the States of LAGOS, ENUGU, KANO and ABUJA, the Federal capital.

This mission was undertaken by the Special Rapporteur on Women’s Rights in Africa within the context of promotional activities of the African Commission. The main objective of the mission was to gather reliable, first-hand information about the situation of Nigerian women in order to define their legal status. Within this framework, the Special Rapporteur held discussions with government authorities, the National Commission of Human Rights as well as several non-governmental organizations.

The mission lasted from 20TH February to 2ND March 2001 and the delegation was composed of the following:

- Mrs. Julienne ONDZIEL-GNELENGA, Special Rapporteur of Women’s Rights in Africa and Member of the African Commission;
- Mrs. Annie RASHIDI-MULUMBA, Legal Officer at the Commission Secretariat;
- Mrs. Charlotte M. NDAYISABA, Personal Assistant to the Special Rapporteur.

Previously colonized by Portugal and then England, Nigeria attained independence in 1960. She adopted a Republican Constitution in 1963, but remains a member of the Commonwealth.

After a succession of military regimes, a civilian, OLUSEGUN OBASANJO, elected on 29TH May 1999, today heads the country.

The most populous nation in Africa, Nigeria’s population stands at approximately 120.000.000 inhabitants, made up of various ethnic groups, the Hausa in the North, the Yoruba in the South-West and the Igbo in the South-East. The North is predominantly Islamized (since the 16TH Century), whilst the South is Christian and Animist.

The governmental structure at the Federal level adheres to the principle of the separation of powers.

- The Executive is headed by the President and the Vice-President, elected democratically;
- The Legislative, known as the National Assembly, is based on the American model and is composed of the Senate and the House of Representatives;
- The Judiciary, largely based on the Anglo-Saxon system comprise:
• At the Federal level, a general legal system applicable throughout the whole territory of the Republic,

• At the level of all the states of the Federation (including Abuja, the Federal Capital), each state has its specific judicial system,

• In some states, local customs are still applied.

The biggest producer of petroleum in Sub-Saharan Africa, Nigeria considers black gold as the main source of the country’s wealth, even though the more humid South has greatly developed its agricultural sector.

Within the framework of the mission, the Special Rapporteur held consultations with officials of the Federal Government and State Authorities, the National Commission of Human Rights, NGOs and Associations, as well as representatives of the civil society. The delegation also visited prisons and one health center.

LEGAL STATUS OF WOMEN

Information obtained from Nigeria indicate that the status of women at the state level is influenced to a large extent by Islam in the North and Central parts of the country and by Christianity and Animism in the South.

However, at the Federal level, the Government, in cognizance of the cultural and religious disparities on the status of women, adopted a programme known as the National Women Policy, aimed at catering for the needs of women in all fields of life throughout the Federal Republic. Bodies such as Commissions on Women’s Affairs at the Federal level are assigned with the task of implementing this policy for the benefit of women. On the issue of the promotion and protection of women’s rights, Nigeria submitted its initial report on the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1995 as well as the periodic report in 1998.

Even though the status of women is influenced to some extent by religion and tradition, which are biased against them, it is indeed guaranteed by the texts in force, known as Common Law.

The norms ratified by Nigeria at both international and regional levels as well as the Federal constitutional provisions are discarded in most of the states when interpreted in fields relating to women’s affairs.

Several statutory laws, decrees and other administrative measures adopted by the states are discriminatory against women.

In the field of education: the literacy rate of women is low — less than 40%.

This state of affairs is attributable to unequal access to school by girls and boys (more places reserved for boys, socio-cultural obstacles, pregnancies, etc.).
Initiatives aimed at correcting this imbalance in the field of education have been undermined by the non-implementation of adjustment policies that exist since 1976 (free and compulsory primary education...).

In the field of employment: discriminatory practices are the order of the day; a blatant example is the practice consisting of requiring female police superintendents to submit official authorizations from their immediate superiors before getting married, whilst no such authorizations are requested from their male counterparts. Moreover, females in the police force have to have at least three years service before becoming pregnant.

Fiscal rebates and family benefits are automatically paid to male workers to the detriment of female workers. Sexual harassment is a frequent occurrence and women are recruited on the basis of their sexual appeal.

Marriage: the legal age for marriage is when one attains the age of maturity, but in Northern as well as Southern Nigeria, forced and early marriages exist, leading to pregnancies which could jeopardize the life of both mother and child.

Three forms of marriages are practiced: civil, customary and Islamic marriages. The application of certain discriminatory laws such as the provisions of the FEDERAL CHARACTER COMMISSION (FCC), violate women's rights not only in marriage but also in employment and participation in the affairs of the country.

Divorce: the matrimonial system chosen by spouses is not always applied. Women are frequently despoiled by their husbands who in most cases have more means with which to corrupt justice officials (it should be stated that the Nigerian judicial system is extremely corrupt) and have the upper hand irrespective of the matrimonial regime chosen by both spouses.

In some states in Southern Nigeria (especially among the IJAWS) when a husband who had attained noble status in the society dies, the youngest wife is buried alive with the corpse.

Inheritance: widows in most cases are stripped of all properties belonging to their dead husbands by their in-laws and are left destitute with the children to care for. Court cases in inheritance litigations are numerous and expensive and widows are discouraged to pursue such cases since they are obliged to fight alone, against a very corrupt justice system.

In theory, girls enjoy the same inheritance as boys but discriminatory practices against the former abound.

Women representation: this is not guaranteed at all levels, whether at the Federal Government, diplomatic positions, the Federal Supreme Court, the National Assembly or political parties. The representation of women in these structures remains very insignificant.

At the Federal level, only three female Ministers exist, among them the female Deputy Governor of Lagos State. The National Assembly and the Senate have only 9
and 3 female members respectively, i.e., 12 women out of a total number of 500 parliamentarians. This low rate of representation of women in elective posts is due to socio-cultural prejudices against them.

Health of Women: indicators point to the fact that this is very mediocre in Nigeria, particularly in reproductive health – the death rate in rural areas is estimated at 1,800 per 100,000 births.

This high rate is attributable to complications during pregnancy as well as malnutrition due to socio-cultural constraints (food taboos).

Contraception has to be agreed upon by the husband. Abortion is illegal in the country but clandestine abortions are very common leading to complications, which frequently result in death or infirmity of the woman.

Citizens are allowed to occupy public posts only in their states of origin, which restricts the freedom of married women to work and live in the country since they are always forced to follow their husbands who might originate from other states.

In effect, in line with the provisions of the Federal Character Commission (FCC), any legal proceedings against the State should be initiated in the state of origin of the plaintiff.

Violence against women: this phenomenon is endemic and very widespread not only within the family but in the society as a whole and is also perpetrated by the State:

- Rapes and other forms of sexual violence (case of the village of Odi in the Niger Delta);
- Aggravated assault (women battered by their husbands or people in the streets);
- Forced early marriages and unwanted early pregnancies;
- Sexual harassment at the workplace;
- Female Genital Mutilations (Case of adult women forced by their families to undergo this practice);
- Widespread polygamy (especially in the North);
- Application of discriminatory laws especially in the workplace and the employment market;
- Discrimination against women on succession and inheritance rights which is one of the causes leading to the impoverishment of women;
- Burial of young women alive with the corpses of their dead husbands;
- Assassination of women by husbands using hydrochloric acid when the former are not prepared to divorce.
- An NGO called BAOBAB is currently working on the case of fifty widows from ODI who were raped after their husbands and children were summarily executed. Odi is a village situated in the Niger Delta in Southern Nigeria where soldiers were sent by the State to contain ethnic conflicts among the inhabitants and who found nothing better to do than raze the whole village to the ground, killing men and boys.
STATUS OF WOMEN UNDER «SHARIA» LAW

In the Northern States of Nigeria, the status of Women is governed by religion, especially the Islamic «SHARIA», which means «law» in Arabic.

A certain number of myths surround this law, especially:

- **«SHARIA» is of divine essence.** Studies have led us to conclude that the KORAN contains religious verses on the spiritual obligations of believers such as prayers, fasting, pilgrimage to Mecca, as well as verses (approximately 80 in number) which in fact constitute legal provisions relating mainly to issues of marriage and inheritance. It would appear that these were drawn up by Jurisconsults based on the KORAN, the Hadith and the Sunnah (pronouncements of the Prophet Mohammed). As regards human intervention, religious law, as well as other types of societal laws are influenced by the political, economic and socio-cultural context, not only in their conceptualization but their application as well;

- **«SHARIA» is a unitary system.** We have been informed that «SHARIA» varies from one area to another and from one State to the other and that it also changes with time. Women’s rights constitute one of the areas where the variations are indeed scandalous not only among the four main schools of thought of «SHARIA» but within their midst also.

- Fears on the current implementation of «SHARIA» in Nigeria are based on the premise that it will be used on the one hand to restrict women’s rights rather than to promote them, and on the other it would also apply to non-Muslims (e.g. Public transports and places).

As regards the criminal aspect of «SHARIA», especially punishment inflicted on people caught stealing by amputation of the arm; this applies to both men and women and constitutes a serious violation of the right to physical integrity guaranteed by the relevant regional and international legal instruments.

In effect, in the Northern States of Nigeria which adopted «SHARIA», especially those which implement it such as KANO, SOKOTO, NIGER, KATSINA, BORNO, JIGAWA, BAUCHI and ZAMFARA, the status of women in the bulk of cases is in stark contradiction with international and regional norms to which Nigeria is a signatory, such as the Universal Declaration of Human Rights, the Pact on Civil and Political Rights, the Pact on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination Against Women as well as the African Charter on Human and Peoples Rights.

One could cite for instance the case of BARIYA IBRAHIM MAGAZU, aged less than 17 years who was declared guilty of fornication, «ZINA», in September 2000 for being pregnant outside wedlock.

She was sentenced to flogging of 100 lashes to be administered 40 days after the birth of her child. Furthermore, she was sentenced to an additional 80 lashes for false
accusation, « QADHF », when the « SHARIA » High Court deemed that there was not sufficient proof to identify the man that BARIYA accused of fathering her child.

After the birth of the baby, the sentence was executed: Bariya was lashed on the back in public on 19 January 2001 in GUSAU, the capital of Zamfara State. Even if the sentence was subsequently reduced to 100 lashes by the « SHARIA » High Court which did not recognize the crime of false accusation, the whole case was conducted in violation of the provisions of Article 7 of the African Charter and Article 14 of The International Pact on Civil and Political Rights which give all individuals the right to fair hearing.

Other unacceptable forms of violations of women’s rights exist and are equally disgusting and constitute acts of violence against them:

- Arrests and detention of young girls who attained maturity for “loitering” in the streets after 9 p.m;
- Imprisonment of young girls for alcohol (beer) consumption in public places;
- Imprisonment of young girls for incest;
- Imprisonment of young girls for pregnancies outside wedlock; etc.
- The practice of genital mutilation is common, and coupled with other practices such as early marriages leading to premature pregnancies, and lack of spacing, is one of the causes of Vessico-Vaginal Fistula (VVF);
- Early marriages vary between 10 and 14 years;
- Polygamy is the order of the day;
- In terms of inheritance, the woman has right to half the share allocated to the male even if this law varies from one area to the other;
- The education of the female child is subjected to socio-cultural and religious bottlenecks which favor the education of the male children;
- In some States access to land through inheritance is denied women.

RECOMMENDATIONS

To the Federal Government

- Take the necessary and appropriate measures to protect women against all forms of violence, as well as traditional beliefs and practices such as burying wives alive with their dead husbands, FGM, despoilment of widows;
- Inform and educate women on their fundamental rights in general, particularly in reproductive health, in order to reduce the high rate of maternal and infant mortality;
Given Nigeria’s status as a secular Federal Republic, there is need to stop the predominance of any religion in the lives of all Nigerian citizens whether male or female. The Government is also called upon to ensure that the application of « SHARIA » does not constitute an impediment to the promotion and protection of women’s rights;

The Federal Government of Nigeria should ensure that the laws of the States respect the Constitution of the Federation as well as the sub-regional, regional and international norms that the country had willfully accepted;

It is also called upon to take the appropriate measures to ensure that commitments taken by Nigeria at the Conference on the Mid-Term Review of the Implementation of the Beijing Platform be respected throughout the country.

To the ACHPR

Organize and undertake at least one mission per year to Nigeria in order to assess the numerous problems encountered by this country, especially the legal duality between the Federal State and the federated states.

Call upon the NGOs to provide information on the situation of women’s rights in all the States, those in the North as well as in the South;

Urge the Nigerian Government to submit its periodic report on a regular basis and to devote a special chapter on « SHARIA » - its conception, status of implementation and impact on the populations.
LIST OF OFFICIALS MET

- Attorney General and Minister of Justice, (ABUJA)
- Deputy Commissioner of Women’s Affairs (ENUGU)
- Deputy Governor (KANO)
- Director of Cabinet for the Deputy Commissioner of Women’s Affairs (KANO)
- National Commission of Human’s Rights (ABUJA)
- Mrs Fatima KWAKU, Member of CEDAW COMMETTEE (KANO)
- BAOBAB Women’s NGO (55) LAGOS
- WACOL Women’s NGO (45) ENUGU
- Prisoners Rehabilitation and Welfare Action, « PRAWA »
- International Federation of Women Lawyers, « FIDA »

PLACES VISITED

- KANO Central Prison (Women’s wing)
- KIRIKIRI Prison - Women’s wing (LAGOS)
- V V F Center (Vessico-Vaginal Fistula) DAMBATA (KANO)