

**Submission to 56<sup>th</sup> session of the African Commission on Human and Peoples' Rights on the situation of human rights defenders**

# NIGERIA

April 2015

**In March 2014, the African Commission on Human and Peoples' Rights issued Resolution 267 on the Human Rights Situation in the Federal Republic of Nigeria. Resolution 267 strongly condemns violence and attacks against civilians committed by armed groups. It also calls upon the Nigerian Government to ensure that military operations in response to the terrorist activities of Boko Haram comply with regional and international human rights standards.**

The purpose of this paper is to highlight the situation for HRDs in Nigeria since its last review by the ACHPR; the steps taken by the Nigeria to implement the ACHPR's past recommendations; and key recommendations for the ACHPR to consider making to Nigeria during its current review.

## 1. Risks facing human rights defenders

- Despite the existence of a National Human Rights Commission since 1995 (which received quasi-judicial powers in 2010) and a Public Interest Litigation/Human Rights Defenders Unit, Nigeria's human rights record remains poor. Violations against various groups of individuals continue, in particular, lesbian, gay, bisexual, transgender and Intersex people (LGBT people) journalists<sup>1</sup> and women.
- Human rights defenders (HRDs) in Nigeria are regularly threatened.<sup>2</sup> HRDs face numerous risks, varying in nature and intensity depending on the geographical area in which they operate, as well as the human rights issues they deal with. Corruption and good governance are sensitive issues and HRDs and journalists reporting on these issues are harassed.<sup>3</sup> These threats have been attributed to deep rooted corruption within the security forces and the presence of the terrorist group Boko Haram.<sup>4</sup>
- The existence of pervasive corruption in the Nigerian security forces has fostered a climate of near total impunity.<sup>5</sup> On 9 February 2015, two HRDs were brutally assaulted, seriously injured and denied access to medical treatment by police in Onitsha on the orders of the Divisional Police Officer for legitimate and peaceful work to denounce corruption and abuse. The HRDs were unlawfully detained when they attended the police station after being advised that five women had been re-arrested when their right to bail was groundlessly revoked, notwithstanding that the bail money that had previously been paid was not returned to the women. The HRDs are members of the Civil Liberties Organisation, a human rights organisation and member of the Network on Police Reform in Nigeria – which is committed to promoting peace and accountability for human rights.<sup>6</sup>
- Between November 2011 and May 2012, the ACHPR Special Rapporteur on HRDs received several reports of allegations of violations against HRDs in Nigeria.<sup>7</sup>

## 2. Official restrictions on the space for human rights defenders

- The police in Nigeria frequently use the Public Law and Order Act to disrupt public gatherings and silence human rights defenders. Section 1(3) states that persons must obtain a license to conduct any meeting or procession in public places.<sup>8</sup> While this law was held to be unconstitutional in 2007, which has been supported more recently<sup>9</sup>, the police have disregarded the court ruling and continue to view protests staged without police authorisation as illegal.<sup>10</sup>
- Despite sections 39 and 40 of the Constitution guaranteeing freedom of association and assembly, discriminatory laws and practices persist, gravely endangering civil society, minorities and HRDs. Notably, the Same-Sex Marriage (Prohibition) Bill approved on 14 January 2014 threatens both LGBTI people and defenders of LGBTI rights. Human Rights Watch reported that mainstream human rights organisations in Nigeria face reprisals for opposing the law. A climate of fear and silence has prevailed.<sup>11</sup> The ACHPR Special Rapporteur on HRDs has also expressed deep concern regarding the bill, particularly sections 4(1) and 5(2) which prohibit and criminalise (including detention for up to 10 years) HRDs working on LGBT rights. These provisions undermine the work of HRDs to a degree that is inestimable.<sup>12</sup>

- There exist considerable political obstacles to transparency in government. Freedom House reports that ‘despite the passage of the Freedom of Information Act in 2011, which guarantees the public the right to access public records, various non-governmental organizations (NGOs), including the Media Rights Agenda, have criticised government agencies for routinely refusing to release information sought through the provisions of the law’.<sup>13</sup>
- The draft Bill to Regulate the Acceptance and Utilisation of Financial/Material Contributions of Donor Agencies to Voluntary Organisations (provided to civil society in June 2014) would, if enacted, impose a number of restrictions on the ability of organisations to receive contributions from foreign sources.<sup>14</sup>
- While freedom of expression and of the press are guaranteed under Article 29 of the Nigerian Constitution, instances in which State and non-State actors violate these rights have nonetheless increased. There are widespread and systematic violations of the rights of media workers. In June 2014 incidents of attacks on media freedom in Nigeria included the seizure of publications of *The Punch*, *The Nation*, *Daily Trust*, *Leadership* and *Vanguard* newspapers; arrest of newspaper workers; detention of vehicles belonging to media organisations; the arrest of media vendors; and an accusation by a senior military figure of ‘publishing and selling falsehoods’.<sup>15</sup>
- Although the judiciary has achieved some degree of professionalism; political interference, corruption, and lack of funding, equipment, and training remain important challenges. In addition, certain departments, such as Courts of Appeal, have frequently overturned decisions on election challenges or allegations of corruption against powerful elites, significantly calling into question their independence.<sup>16</sup>

### **3. Human rights defenders facing particular risks**

- Frontline Defenders reports that HRDs operating in the Niger Delta area advocating against unlawful detention and torture frequently suffer intimidation and attacks, some of which are fatal.<sup>17</sup>
- As indicated above, HRDs working on LGBTI rights face heightened risks, in particular following the adoption of the homophobic Same-Sex Marriage (Prohibition) Bill on 7 January 2014.<sup>18</sup>
- Women HRDs are also particularly vulnerable, especially in the northern regions (where Sharia law prevails), and in southern regions where traditional ‘customs’ (such as widowhood discrimination, female genital mutilation, domestic violence and child marriage) remain deep-rooted.<sup>19</sup>
- Journalists are publically criticised, harassed and arrested. Nigeria is ranked 11th worst in the world in combatting anti-press crime.<sup>20</sup> Freedom House reports that these instances are more likely to be associated with government attempts to cover corruption scandals or separatists and communal violence. In June 2013 a reporter and news editor from the *Leadership* newspaper were arrested and charged in Abuja High Court with forgery, for revealing information about an alleged presidential directive. Earlier that year, the National Film and Video Censors Board banned the documentary ‘*Fuelling Poverty*’ claiming that it was a threat to national security because of its potential to encourage public protests. The documentary details corruption in the oil industry and its impact on Nigeria’s economic development.
- Journalists and media entities also suffer attacks from Boko Haram. In January 2012, Enenche Akogwu, a reporter and cameraman for Channels TV, was shot dead while interviewing witnesses to terrorist attacks in Kano.<sup>21</sup>
- Whistle-blowers acting to expose abuses by the military and the police have also been targeted, including being arbitrarily arrested and having documents confiscated.<sup>22</sup>

### **4. The response of the State regarding the protection of human rights defenders**

- In Nigeria’s last Universal Periodic Review (20 March 2014), it accepted recommendations to protect the activities of HRDs and civil society organisations. Regrettably, there does not appear to have been any real progress in that regard.<sup>23</sup>
- On 10 January 2012 and 20 April 2012, the ACHPR Special Rapporteur on HRDs sent two communications to the Nigerian Government pertaining respectively to the arrest and detention of Mr. Osmond Ugwu, Chairperson of the NGO Civil Liberties Organization in Enugu and the judicial harassment of Mr. Chidi Odinaklu, Chairperson of the National Human Rights Commission of Nigeria. As far as we are aware no response had been received by the Office of the Special Rapporteur as yet.
- Following its Universal Periodic Review in 2009, Nigeria granted the National Human Rights Commission (NHRC) financial autonomy and independence. However, funding of the NHRC continues to be insufficient and has limited reach in many affected communities.<sup>24</sup>
- In 2014, the United Nations Special Rapporteur on the situation of HRDs sent a communication to the Nigerian Government in relation to the proposed passage of the Same Sex Marriage (Prohibition) Bill by

the Senate on 18 December 2013. The Special Rapporteur expressed serious concern that the law would unduly limit the free exercise of the rights to freedom of association, assembly and opinion and expression, as well as restrict the work of human rights defenders in relation to the human rights of LGBTI persons. No response was ever received and the Act was subsequently approved.<sup>25</sup>

- Later that same year the United Nations Special Rapporteur on the situation of HRDs sent an additional communication to the Nigerian Government expressing his concern that the draft Act to Regulate the Acceptable and Utilisation of Financial/Material Contribution of Donor agencies to Voluntary Organisations restricted the rights to freedom and association and the principle of non-discrimination among associations. Similarly, no response was received to this communication.<sup>26</sup>

## 5. Recommendations to the Government of Nigeria

- Combat impunity by ensuring prompt, thorough and transparent investigations of all violations against HRDs the prosecution of perpetrators, and access to effective remedies for victims.
- Refrain from criminalising the legitimate activities of HRDs and repeal all laws and policies that restrict their activities and rights, including the discriminatory Same-Sex Marriage (Prohibition) Bill, and ensure the protection of journalists.
- Ensure the complete implementation of the Freedom of Information Act in 2011 and allow the public the right to access public records.
- Enact and implement specific laws, policies and measures to recognise and protect HRDs, by giving full force and effect to the International Declaration of HRDs.
- Engage and communicate with the ACHPR Special Rapporteur on HRDs, in particular in connection with her mandate to be the focal point on reprisals, including by issuing a standing invitation to her to visit Nigeria, as well as to the Special Procedures of the Human Rights Council, such as the UN Special Rapporteur on the Situation of HRDs, and relevant regional mandate holders.
- Ensure the independence and resourcing of the NHRI, and ensure that it adheres to the Paris Principles.
- Ensure the independence of the judiciary, investigate and implement measures to combat corruption.

**HRDs in Nigeria face repression on at least two fronts, being targeted by the Government for legitimate dissent, as well as by Boko Haram for seeking to expose alleged atrocities. As the aforementioned censorship of the documentary *Fuelling Poverty* indicates, it is likely that the interests of commercial third parties also acts to further repress and limit the legitimate activities of civil society.**

<sup>1</sup> [http://www.omct.org/files/2010/05/20688/nigeria\\_mission\\_report.pdf](http://www.omct.org/files/2010/05/20688/nigeria_mission_report.pdf)

<sup>2</sup> <http://www.defendingwomen-defendingrights.org/our-work/actions/colombia-threats-and-surveillance-of-hrd-ms-nevys-nino-rodriguez/>

<sup>3</sup> <http://www.frontlinedefenders.org/nigeria>

<sup>4</sup> Supra 3.

<sup>5</sup> <https://freedomhouse.org/report/freedom-world/2014/nigeria#.VRloeZOUdXY>

<sup>6</sup> <http://www.frontlinedefenders.org/node/28080>

<sup>7</sup> <http://www.achpr.org/sessions/51st/inter-session-activity-reports/human-rights-defenders/>

<sup>8</sup> [http://www.omct.org/files/2010/05/20688/nigeria\\_mission\\_report.pdf](http://www.omct.org/files/2010/05/20688/nigeria_mission_report.pdf)

<sup>9</sup> <http://allafrica.com/stories/201411140986.html>

<sup>10</sup> <http://www.panapress.com/Nigeria-s-public-order-law-still-intact,-say-police--12-580096-146-lang1-index.html>

<sup>11</sup> <http://www.hrw.org/news/2014/03/31/memorandum-human-rights-priorities-european-union-africa-summit>

<sup>12</sup> <http://www.achpr.org/press/2014/02/d190/>

<sup>13</sup> [https://freedomhouse.org/report/freedom-world/2014/nigeria#.VR0sw\\_mUdRp](https://freedomhouse.org/report/freedom-world/2014/nigeria#.VR0sw_mUdRp)

<sup>14</sup> <http://www.icnl.org/research/monitor/nigeria.html>

<sup>15</sup> [http://www.mfwa.org/fev.php?article\\_ID=188](http://www.mfwa.org/fev.php?article_ID=188)

<sup>16</sup> Supra 13.

<sup>17</sup> Supra 1.

<sup>18</sup> <http://www.equalrightstrust.org/newstory150114/index.htm>

<sup>19</sup> [http://www.academicjournals.org/article/article1391512112\\_Chukwu%20et%20al.pdf](http://www.academicjournals.org/article/article1391512112_Chukwu%20et%20al.pdf)

<sup>20</sup> <https://cpj.org/reports/2013/05/impunity-index-getting-away-with-murder.php>

<sup>21</sup> [http://www.ifex.org/nigeria/2012/01/25/akogwu\\_killed/](http://www.ifex.org/nigeria/2012/01/25/akogwu_killed/)

<sup>22</sup> Supra 1.

<sup>23</sup> [http://www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/58ABA276F9473BB8C1257CA1003DCFAD?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/58ABA276F9473BB8C1257CA1003DCFAD?OpenDocument)

<sup>24</sup> <https://www.sfcg.org/combating-human-rights-abuses/>

<sup>25</sup> [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A\\_HRC\\_28\\_63\\_Add\\_1\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_63_Add_1_en.doc)

<sup>26</sup> Supra 25.