



**irct**  
International  
Rehabilitation  
Council for  
Torture Victims

FACTSHEET

REF: Nigeria/3

AUG 2013

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## ACCESS TO DOCUMENTATION OF TORTURE ALLEGATIONS

### PREVIOUS UPR RECOMMENDATIONS

During the first cycle of the UPR, recommendations were made to ensure effective investigations of allegations of torture and ill-treatment and end impunity for perpetrators. Nigeria accepted both recommendations

### BACKGROUND

While there are mechanisms in place to investigate allegations of torture and ill-treatment, including the Police Complaints Commission and the National Human Rights Commission, these have proven largely ineffective in delivering accountability. This is due to factors such as non-enforcement of recommendations made by the National Human Rights Commission, and lack of adequate funding and capacity to undertake prompt and thorough investigations into all allegations of torture. Furthermore, these mechanisms are not readily accessible for many persons in detention, and often their only option is to complain directly to the police, prison officers or the detention centre staff. These options are both considered ineffective and carry a very high risk of reprisals for the complainant. As a result, victims generally do not report incidents of torture and ill-treatment to the authorities, and when they do, the result is more likely to be further torture and ill-treatment than any form of effective investigation and prosecution of the perpetrators.

Nigeria has not yet established a torture reporting guideline that would serve as means of tracking the increase or decrease in the prevalence of torture by security agents / law enforcement agents or justice sector officials in the country. The introduction and implementation of this mechanism will indirectly serve as deterrent to the use of torture in places of detention. More importantly, it would encourage the

victims of torture to speak up and report such abuses.

A full medical and psychological forensic evaluation of the victim is an essential component of effective torture investigations, and in scenarios where the regular investigative mechanisms are dysfunctional, health professionals can play an important role in exposing torture. In Nigeria only victims that have access to relevant professionals and the means to pay can benefit from such examinations. There is an insufficient number of health professionals trained in documenting signs of torture and ill-treatment; and external doctors do not have access to detainees. Furthermore, in places of detention, there are very few doctors. For example, many prison facilities with 1,000 to 2,000 or more detainees have only one doctor. Police and other detention facilities face similar challenges. This leaves no time for more in-depth examination of individual detainees, and medical examinations are not mandatory for all detainees/prisoners or ordered as part of routine documentation in the case file.

To improve the situation, it is essential that legal and health professionals involved in the administration of justice are trained on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (also known as the Istanbul Protocol), and that detainees are guaranteed access to a full medical examination by a doctor of their own choice. The medico-legal report produced on the basis of the examination must be given to the detainee as well as made accessible to the court and upon request to the National Human Rights Commission, the National Committee on Prevention of Torture and any other organisation that may make a demand for this, subject to the consent of the detainee.

### **PROPOSED QUESTIONS**

What measures is the Government taking to ensure that all places of detention afford detainees effective access to have allegations of torture and ill-treatment medically documented in accordance with the Istanbul Protocol?

What measures has the Government of Nigeria taken to ensure that all persons in detention have direct access to both internal and external independent complaints and redress mechanisms? What are the records of complaints received, as well as their outcome and redress?

### **PROPOSED RECOMMENDATIONS**

Implement a torture reporting guideline that provides for registration of all cases of torture and ill-treatment in detention and ensures that all detainees have full and unhindered access to physical and psychological documentation of alleged torture and ill-treatment, in accordance with the Istanbul Protocol principles, upon reception, transfer and whenever concrete allegations are made.

Ensure that all legal and health professionals, especially those involved in the administration of justice, receive training on the investigation and documentation of torture, in accordance with the Istanbul Protocol.

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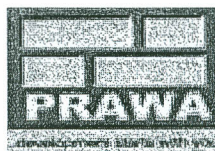


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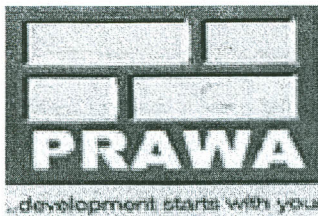


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## TREATMENT OF DETAINEES WITH MENTAL DISABILITIES

### PREVIOUS UPR RECOMMENDATIONS

During the first cycle of the UPR, no recommendations were made to Nigeria pertaining to treatment of detainees with mental disabilities.

### BACKGROUND

In the official statistics of the Nigeria Prisons, the terms 'civil lunatics' and 'criminal lunatics' are an official classification of some prison inmates. This term 'civil lunatics' is used to refer to persons who did not commit any crime, but who are locked up solely on the basis of their real or perceived mental disability, often for the family to avoid shame and the responsibility for providing their drugs, meals or hospital bills. There are instances where some of these so-called 'civil lunatics' have been detained in prisons for periods such as 10, 12, 15, 24 years, etc. Furthermore, the so-called 'criminal lunatics' (persons with mental disabilities that have committed crimes) and other prison inmates, who developed mental health problems while in detention, are incarcerated in normal detention facilities and often mixed with the general prison population, especially in prisons where there is no prison asylum unit. There are instances of persons detained in the prison asylum whose cases seemed linked to non-criminal issues. For example, in one case, a young boy alleged that his uncle facilitated his being sent to the prison asylum because the uncle wanted to take the boy's late father's land. In another, a woman alleged that the husband did same to her because he wanted to take a second wife. Some are in the prison asylum because of drug use, such as marijuana (cannabis), which their family felt was an embarrassment.

Most detention facilities have no support systems such as psychological counseling available. This is in

direct violation of Article 22(1) of the United Nations Standard Minimum Rule on the Treatment of Prisoners, which stipulates that the services of at least one medical officer with the knowledge of psychiatry must be present in every prison.

In Nigeria, the cost of treatment at psychiatric hospitals is prohibitively high for the average family. As a result, the number of persons with mental disabilities in regular detention facilities is very high and, in some cases, accounting to up to 10% of the prison population. According to PRAWA's monthly documentation of prison population in Enugu State, as of 30 June 2013, the prison housed a total of 1,504 inmates, of which 102 inmates were detained in the Asylum Unit.

The National Human Rights Commission's Prison Audit Report of 2012 documented the presence of mentally ill persons as follows: in the North East Zone of Nigeria, four prisons out of 37 prisons harboured 20 mentally ill persons. In the North West of Nigeria, 50 mentally ill persons were noted, in the South-South, 79 mentally ill persons, in the South West, 121 mentally ill persons, and in the whole of South East – 289 mentally ill persons, (of which Enugu prison accounted for 136).

There are federal psychiatric hospitals in all the six geo-political zones in the country, but there is no effective coordination between the ministries of health and interior to ensure free and accessible treatment for persons with mental disabilities in the prison and across the justice sector spectrum. Furthermore, current legislation governing the processing of persons with mental disability within the criminal justice system are outdated compared to international standards and an updated mental health bill has been pending before parliament for four years

## PROPOSED QUESTIONS

What steps are being taken by Nigeria to ensure that persons with mental health disabilities in prison are provided with free, quality and accessible mental health services as well as prompt review of their cases?

What measures are Nigeria taking to ensure that mentally disabled persons designated as 'civil lunatic' are not detained but rather offered the relevant treatment and care on a voluntary basis.

What steps is Nigeria taking to inform and educate its law enforcement agents and general public on mental health care and support to persons living with mental disabilities, and the need to prevent stigma, discrimination, cruel, inhuman and degrading treatment or punishment meted against them?

## PROPOSED RECOMMENDATION

Ensure that all detainees with mental disabilities are provided with adequate and free care and treatment by qualified mental health professionals.

Ensure that no one is detained solely on the basis of mental disabilities and ensure diversion of such persons away from the criminal justice system to appropriate health care services.

Provide effective prison, hospital and community-based drug rehabilitation programmes.

Review state and national mental health laws to ensure full compliance with international standards.

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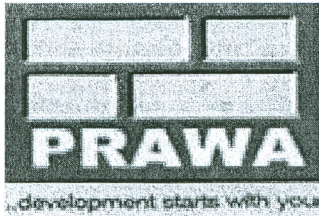


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## INVESTIGATION OF EXTRAJUDICIAL KILLINGS

### PREVIOUS UPR RECOMMENDATIONS

During the first cycle of the UPR, recommendations were made to ensure effective investigations of allegations of extrajudicial killings and end impunity for perpetrators. Nigeria accepted both recommendations.

### BACKGROUND

While the right to life is expressly protected in the Constitution, the practice of extrajudicial killings remains widespread in Nigeria. These take place in a wide variety of context such as: punishment for failure to pay bribes to police officers; in connection with crackdown on violent crime, such as armed robberies and counter insurgency operations; in connection with protests; often as the end result of violent torture practices. As indicated in reports by local and international NGOs as well as UN Special Procedures, this is a serious and long-lasting problem in Nigeria.

The Government has failed at multiple levels to effectively address this issue. There are few and ineffective safeguards against extrajudicial killings in detention such as CCTV, victims registers and arrest notification to family members. Recruitment standards to the police force have been grossly compromised in a push to increase the size of the force.

Due to corruption and lack of independence of the investigating authorities, extrajudicial killings are very rarely investigated, and autopsies, when carried out, lack quality and are not made available to the victims' families. There are no indications of improve-

ments in the situation since the 2009 UPR.

In order to effectively address this, there is a need for complete reform of the structures and mechanisms established to investigate and safeguard against extrajudicial killings. Investigative authorities must be completely independent of the security sector and have access to a complete and updated register of all deaths occurring in any form of detention or custody of security officials. Further, any death in custody must be ex officio investigated including a full autopsy to determine the cause of death.

### PROPOSED QUESTIONS

What steps has Nigeria put in place to address the problem of extrajudicial killings, including by ensuring that all cases of death in custody are fully investigated, a full autopsy conducted on the victim and perpetrators prosecuted?

Do the police and external oversight bodies keep record of how many cases of extrajudicial killing have been investigated, with the perpetrators brought to account and victims compensated; and if these exist, are they made available to the public. Further, how do these reports/incidence inform policy?

What measures are being taken to ensure that appointment procedures to the Police Services Commission promote a fully independent mechanism in law and in function with respect to ensuring police accountability and staff recruitment, discipline and promotion?

### **PROPOSED RECOMMENDATION**

Ensure that all deaths in custody and killings by law enforcement agencies are subjected to a full autopsy and investigation in accordance with the Minnesota Protocol, and that all perpetrators of extra-judicial killings are prosecuted and duly sanctioned.

Implement basic safeguards against extrajudicial killings, such as video monitoring of detention and interrogation rooms and arrest notification of family members, and establish a public accessible national register of all deaths in police, prisons and other detention facilities.

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## ACCESS TO REHABILITATION SERVICES FOR TORTURE VICTIMS

### PREVIOUS UPR RECOMMENDATIONS

During the first cycle of the UPR, there were a significant number of recommendations focused on preventing and ensuring accountability for torture and ill-treatment. However, none specifically addressed the obligation to provide rehabilitation services.

### BACKGROUND

Torture and ill-treatment is systematic and widespread in Nigeria. It takes place both as a measure to force confessions from criminal suspects and as a result of the general conditions of detention in Nigeria's prisons. The concerns outlined in the report by the Special Rapporteur on Torture from 2007, including amputation and canning in Sharia Law, detainees held in overcrowded and unsanitary environments, long periods of pre-trial custody, arbitrary detention and widespread and systematic torture by law enforcement officials, are still applicable. Physical torture is a common practice in police detention facilities, where, for reasons of lack of adequate forensic facilities, inadequate capacity, training and oversight, the majority of detainees experience torture. It has been estimated that over 90 percent of detainees in police custody experience physical torture. Further, prison conditions and treatment of detainees and prisoners often amount to psychological torture, inhumane and degrading treatment. Due to a combination of severe physical and psychological consequences of the torture and ill-treatment they have suffered, many victims have difficulties reintegrating into society and leading a rewarding life. This has far reaching personal and socio-economic con-

sequences for these individuals, their families and communities and society, in general.

In order for victims of torture and ill-treatment to heal and resume their lives, they need to have access to holistic rehabilitation services. This right to access rehabilitation services is also a State obligation under Article 14 of the UN Convention against Torture. General Comment No. 3, which was recently adopted by the UN Committee Against Torture, provides comprehensive guidance on how States can implement this right to rehabilitation. The State National Agency for Trafficking Against Persons and Other Related Offences (NAPTIP) and civil society organisations are providing rehabilitation services for victims of human trafficking, rape and domestic violence. Unfortunately, the State offers no such services to victims of torture as defined in Article 1 of the UN Convention Against Torture. PRAWA is one of few civil society actors providing such services. While these are offered in accordance with the substantive standards outlined in General Comment No. 3, they are not provided at a sufficient scale to be available to the very high number of victims of torture and ill-treatment in Nigeria. The health services provided by the State in Nigeria are of a general nature and do not specifically address the complex needs of victims of torture and ill-treatment. They are thus incapable of satisfying the victims' right to as full rehabilitation as possible. This illustrates a need to ensure that rehabilitation services of a sufficient quality and scale are available to all victims of torture and ill-treatment in Nigeria.

### **PROPOSED QUESTIONS**

What measures is the State of Nigeria taking to ensure that all victims of torture and ill-treatment have effective access to holistic rehabilitation services, in accordance with its obligations under Article 14 of the Convention against Torture?

Is there an official record of how many cases of torture the authorities have effectively investigated with perpetrators brought to book and victims compensated/rehabilitated?

### **PROPOSED RECOMMENDATIONS**

The State should fully implement its obligations under Article 14 of the Convention Against Torture and the recently adopted HRC resolution 22/21 on rehabilitation services for torture victims, including by:

- Integrating specialised and holistic rehabilitation services into the public health system;
- Training health professional in the provision of holistic rehabilitation services
- Creating an enabling funding and operational environment for non-state rehabilitation services

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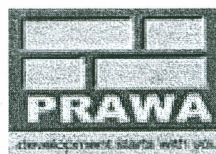


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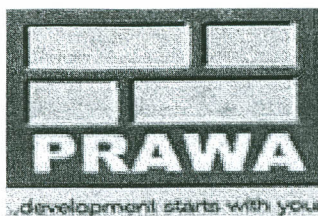
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## MONITORING PLACES OF DETENTION

### PREVIOUS UPR RECOMMENDATIONS

During the first cycle of the UPR, recommendations were made to ratify the OPCAT and establish a National Preventive Mechanism and to improve conditions of detention, including access to health care, enjoyment of basic rights and lowering the rate of persons in pre-trial detention. Nigeria accepted all recommendations.

### BACKGROUND

Despite some initiatives by the Government of Nigeria to address the situation, torture and ill-treatment remains widespread in places of detention. It comes both in the form of deliberate actions by security officials and as a result of conditions of detention, such as severe overcrowding, lack of access to adequate health care services and prolonged periods of pre-trial detention. Overcrowding, due to a very high rate of pre-trial detainees, and a lack of political will to prioritise the treatment of people in detention remain the main obstacles to improving the overall detention conditions.

There are several agencies in Nigeria with detention powers and facilities, such as the Nigeria Police Force, Nigeria Prison Service, State Security Services, Nigerian Customs and Exercise, Nigeria Civil Defense Corp, Economic and Financial Crime Commission, Independent Corrupt Practices Commission, National Drug Enforcement Agencies, etc.

All agencies should be subjected to regular monitoring of the treatment of persons deprived of their liberty in their custody in line with the provisions of Article 19 of the OPCAT. The Government has established the National Committee on Prevention of Torture to perform this function. However, this mechanism is currently not executing its mandate in accordance with the OPCAT due to a wide variety of problems, including inadequate resourcing of current monitoring mechanisms; lack of a central database or register of all places of detention, their location, and number of detainees; and lack of effective access to all places of detention for civil society organisations. Furthermore, detainees' families and legal counsels are often not informed of the arrest and detention of their family member/client, and even where they are aware, they often have limited access for visits.

A comprehensive reform approach is needed to effectively address this dire situation of torture and ill-treatment of detainees in Nigeria. This must include a register of all places of detention and all persons detained from arrest to discharge; compliance with international standards including the Standard Minimum Rules for the treatment of prisoners; access to all places of detention for non-governmental organisations, families of detainees, legal representatives and health professionals; and effective inspection and monitoring of all places of detention.

## PROPOSED QUESTIONS

How regular are monitoring visits carried out by designated government agencies? Are all places of detention monitored? How regular are the reports of such monitoring visits to all places of detention indicating specific cases and issues observed and actions taken to redress any observed violations?

What steps has the State of Nigeria taken to ensure that, in the creation of its National Committee on Prevention of Torture and in the composition of its membership, it complied with the requirements of guaranteeing functional independence of the mechanism; independence of its personnel, capacity and professional knowledge of the members; gender balance and ethnic/minority representation; as well as provision of adequate resources and power to discharge their duties as provided under Article 18 and 19 of OPCAT?

## PROPOSED RECOMMENDATIONS

Establish a tamper proof register of all persons placed under arrest and a comprehensive database of all places of detention, including their location, number of persons detained and their compliance with international human rights standards.

Ensure unhindered access to all places of detention for detainees' families, legal counsels, medical doctor and NGOs, and complete tracking of the whereabouts of all detainees from point of arrest to discharge.

Ensure that the National Preventive Mechanism is functioning in accordance with the requirements of the OPCAT, including by:

- Adequately staffing and resourcing the National Committee on Prevention of Torture so that it can perform its mandate in accordance with the OPCAT to monitor all places of detention in Nigeria
- Allowing the National Human Rights Commission unhindered access to all places of detention in connection with the execution of its mandate
- Appointing an Ombudsman with the responsibility for monitoring and proposing improvements to the functioning of the Nigerian detention system beyond the mandate of the National Committee on Prevention of Torture

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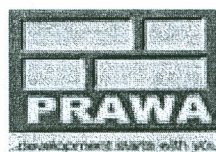


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