

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	145
Land:	Nigeria
Kilde:	United Nations
Titel:	"Special rapporteur on torture concludes visit to Nigeria"
Udgivet:	12. marts 2007
Optaget på baggrundsmaterialet:	10. august 2007



UNITED NATIONS

Press Release

XXXXXXXXXX **SPECIAL RAPPORTEUR ON TORTURE CONCLUDES** XXXXXXXXXXXX
VISIT TO NIGERIA

HR/07/35
 12 March 2007

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, issued the following statement on 9 March in Abuja:

The Special Rapporteur was invited by the Government of Nigeria to undertake a visit to the country from 4 to 10 March 2007. The visit included stops in Abuja, Lagos, Port Harcourt and Kaduna. He expresses his appreciation to the Government for the cooperation it extended to him during the visit. He further expresses his gratitude to the United Nations Resident Coordinator and his team for the excellent assistance prior to and throughout the mission.

Meetings and places

The Special Rapporteur held meetings with the President, the Minister of State for Foreign Affairs, the Minister of Internal Affairs, the Comptroller General of Prisons, the Inspector General of Police, the Attorney General and Minister of Justice, the Solicitor General, the Chairman of the Economic and Financial Crimes Commission, the Executive Secretary of the National Human Rights Commission as well as with State Police Commissioners and Prison Comptrollers. He also met with non-governmental organizations in Abuja, Lagos, Port Harcourt and Kaduna and with representatives of the corporate sector. In addition, the Special Rapporteur held meetings with the International Committee of the Red Cross, the United Nations country team, including UNDP, UNICEF, UNIFEM, UNFPA, UNODC, UNESCO and WHO, and the diplomatic corps in Abuja.

The purpose of the mission was twofold: to assess the situation of torture and ill-treatment in the country, and to offer assistance to the Government in its efforts to improve the administration of justice, including the police and prison sector. A primary focus of the visit was the inspection of detention facilities in the country, and in this regard he expresses his appreciation to the Government for the respect of the terms of reference for the visit. In particular, he wishes to thank the Inspector General of the Police and the Comptroller General of the Prisons for opening up the prisons and police detention facilities to unannounced visits and for enabling the Special Rapporteur to conduct private interviews with detainees. In Abuja, he visited Kuje Prison, and the First Criminal Investigation Department, Garki. In Lagos,

he visited the Panti Criminal Investigation Department, Yaba. In Rivers State, visits were made to the Port Harcourt Prison, the State Police Headquarters, the State Criminal Investigation Department and the Central Police Department. In Kaduna he visited the Central Prison, the State Police Headquarters, and the State Criminal Investigation Department and its Annex.

The Special Rapporteur regrets, however, that the State Security Service denied him access to their detention facilities on each of the three occasions he attempted to visit. This constitutes a serious breach of the terms of reference agreed upon by the Government. Since he received credible allegations of torture by this intelligence agency, the denial of his right to assess for himself the allegations by inspecting the facilities and interviewing detainees leads him to strongly suspect that the authorities wished to conceal evidence.

Context and challenges in the promotion and protection of human rights

The Special Rapporteur welcomes Nigeria's commitment to promoting respect for human rights, as demonstrated by, among other things, its democratic principles, the existence of a vibrant media, dedicated civil society organizations, membership of the United Nations Human Rights Council, and its record of cooperation with international human rights mechanisms and organizations. He appreciates the challenges the State faces given the sheer size and diversity of the population, including ethno-linguistic and religious groups, the plurality of legal systems, the nature of the federal structure, the high level of crime, widespread poverty (despite the potential enormous wealth from oil revenues), and the conflict in the Niger Delta.

Torture and ill-treatment

Nigeria is a State party to all the major international human rights instruments prohibiting torture. The Special Rapporteur was told by Government officials that torture is prohibited by law, though it may occur from time to time, in an unfortunate isolated circumstance, and that the sternest measures are taken against perpetrators, including dismissal and criminal charges. However, these observations appear divorced from the realities prevailing in criminal investigation departments and police stations in the country, especially those that the Special Rapporteur visited. The high number of consistent and credible allegations received from speaking with various detainees, corroborated by forensic medical evidence, in facilities visited in different parts of the country and obtained within the span of a one-week mission, speaks volumes.

Despite the existence of safeguards for arrest and detention, they are regularly ignored. Torture was frequently cited to the Special Rapporteur as being used for the purpose of extracting confessions or to obtain further information in relation to alleged crimes. Methods of torture included: flogging with whips; beating with batons and machetes; shooting suspects in the foot; threatening a suspect with death and then shooting him with powder cartridges; suspension from the ceiling or metal rods in various positions; and being denied food, water and medical treatment.

On the basis of a thorough analysis of the legal system, his visits to detention facilities, interviews with detainees, the support of forensic medical evidence, and interviews with Government officials, lawyers and representatives of NGOs, the Special Rapporteur concludes that torture and ill-treatment is widespread in police custody; particularly systemic in the Criminal Investigation Departments. Torture is an intrinsic part of how law enforcement services operate within the country. This, however, seems not be the case within the prison system.

Impunity and lack of effective complaints mechanisms

There was no question about accountability of perpetrators because there are no functioning complaint mechanisms which exist to receive allegations, and to report and seek effective redress for acts of torture. Victims, especially those still in detention, have no confidence in the mechanisms that do exist, such as reporting allegations directly to senior police officials, or to the Human Rights Desks (in those stations where they exist). Other avenues to complain are simply out of reach to the vast majority of those who find themselves in custody: they cannot afford lawyers, and have no practical means of communicating allegations to NGOs. The Special Rapporteur noted with surprise that he received more complaints of ill-treatment during any of his visits to Criminal Investigation Departments than the National Human Rights Commission received in one year.

Despite knowing that police abuse is wrong, victims feel powerless and are resigned to accept that impunity is the natural order of things when it comes to Nigerian law enforcement. Moreover, attempts to register complaints may be met with intimidation; or investigations lack independence as they may be conducted by the police themselves, or are dealt with internally. Forensic medical examinations which could sustain complaints are non-existent even in cases of death in police custody. No information was provided by the Government on evidence of successful criminal prosecutions of perpetrators for torture, or payment of compensation to victims.

Conditions of detention

The conditions of detention in police cells visited by the Special Rapporteur were appalling.

Detainees are held in unsanitary overcrowded cells, forced to sleep on the concrete floor, minimum food and water supply. In some police stations women, children, and adults were held together in extremely overcrowded conditions. Medical care is non-existent and seriously ill detainees are left to languish until they die. In the opinion of the Special Rapporteur, this demonstrates a total disrespect for human life and dignity. The Special Rapporteur met at least three detainees with life-threatening injuries, who would die without prompt medical attention.

All the prisons visited by the Special Rapporteur are characterized by severe overcrowding, consisting of an inmate population which is typically double or triple the actual capacity of the facility. While Port Harcourt Prison is designed for 800 detainees, a total of 2,420 are presently held. The vast majority of the prison population (in Port Harcourt 2,217) is held awaiting-trial (in pre-trial detention) or held without charge for lengthy periods, as long as ten years. They are subject to even more severe conditions than those of

convicts: are held in overcrowded cells, lacking appropriate hygiene facilities, with insufficient places to sleep, inadequate and/or insufficient food, water, and medical care, let alone any opportunities for educational, leisure, or vocational training. Children on remand are often held with adult males. However, female prisoners are provided with considerably better facilities.

The Special Rapporteur considers that such an extensive recourse to pretrial detention constitutes the major cause for the overcrowding of prisons. It is contrary to the principle of the presumption of innocence and to the exceptional rule of deprivation of liberty laid down by international law. He is encouraged by the Government's recognition of the severity of the problem by considering the release of approximately 25,000 of the 45,000 inmates currently in Nigerian prisons. This review of the legitimacy of continued detention should also apply to the almost 700 prisoners who spend up to 20 years on death row in usually overcrowded cells.

Nigerian criminal justice system

Nigerian law enforcement is seriously under-resourced and at the same time confronted with a high rate of violent crime. As a result, adequate training is lacking, corruption is endemic, and the cadres, emboldened by a culture of impunity for torture, are prone to heavy-handed tactics in a criminal justice system which relies heavily on confessions for successful prosecutions of criminals.

The Special Rapporteur concurs fully with the analysis of the United Nations Special Rapporteur on summary, arbitrary and extra-judicial executions, who carried out a visit to the country in 2005:

There is no singly entry point for reformers of the dismally inadequate Nigerian criminal justice system. Virtually every component part of the system functions badly. The result is a vicious circle in which each group contributing to the problem [police officers, politicians, and the judiciary] is content to blame the other.

Corporal punishment and Sharia penal code punishments

The Special Rapporteur notes that corporal punishment, such as caning, and including *Sharia* penal code punishments, particularly in northern states (i.e. amputation, flogging and stoning to death), remain lawful in Nigeria. Moreover, *Sharia*-related provisions for adultery and sodomy, discriminate against women and same-sex couples, respectively. The Special Rapporteur recalls that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Under international law, they are not lawful sanctions, and violate the international human rights treaties that Nigeria is a party to, particularly the Convention against Torture, the International Covenant on Civil and Political Rights, as well as the Convention on the Rights of the Child.

Female Genital Mutilation

On the occasion of International Women's Day, which this year draws attention to violence against women and girls, and the impunity that makes it possible, the Special Rapporteur welcomes the adoption of a number of

State laws prohibiting discrimination against women in critical areas, such as female genital mutilation and early marriage. Despite such legislation, however, he remains concerned that these practices and social acceptance of them persist, and that effective mechanisms to enforce the prohibitions are absent.

Niger Delta conflict

The increasing violence in the Niger Delta, with its roots in the Federal Government's decades-long neglect and marginalization of people in the region, and the desperate poverty they face – despite the enormous oil revenues emanating from there – impacts upon the practice of torture and ill-treatment. The rise of serious violent crime and attacks by vigilante and criminal gangs against the local population and the oil companies operating there, and the resultant heavy response from security forces, as well police paid by oil companies, invite allegations of torture and ill-treatment.

Preliminary recommendations

The Special Rapporteur recalls that in August 2005, President Obasanjo acknowledged the severity of the problem of torture in the country. Indeed, the findings of the Special Rapporteur are hardly a revelation as many credible human rights organizations, as well as United Nations human rights mechanisms have documented and concluded that torture is widespread in the country and that the conditions in detention are unacceptable.

The invitation of the Government to the Special Rapporteur is yet another example of the willingness of Nigeria to open itself up to independent and objective scrutiny of its human rights situation, and a reaffirmation of its commitment to cooperate with the international community in the area of human rights. The Special Rapporteur recognizes the significant challenges faced by the country. He also acknowledges that the State has undertaken a number of positive initiatives related to human rights, such as the establishment of working groups to study reforms of the justice, police and prison systems; cooperated with Special Procedures of the United Nations Human Rights Council; established panels to study and examine the root causes of the conflict in the Niger Delta, etc. One serious shortcoming, particularly in light of his findings, is the absence of a reference to the issue of torture and ill-treatment by law enforcement officials in the recently published National Action Plan on Human Rights.

The Special Rapporteur recommends that the Government takes decisive steps in order to implement its obligation under its constitution and international law. In particular, the Special Rapporteur recommends the Government, together with the assistance of the international community (i.e. the United Nations and other actors), to:

- criminalize torture in full accordance with the definition contained in article 1 of the Convention against Torture, and impose appropriate penalties;
- undertake a concerted effort to fight impunity by establishing an independent and powerful a criminal investigation mechanism against perpetrators of torture similar to the efforts of the Government's campaign against corruption;
- undertake a nation-wide, sustained and effective awareness campaign on

the absolute prohibition of torture and ill-treatment;

- introduce effective complaints mechanisms within places of detention, and strengthen the National Human Rights Commission to become an effective body which can monitor the practice of torture and ill-treatment;
- introduce effective measures aimed at preventing torture, such as medical documentation of torture allegations, access to lawyers by expanding free legal aid, and monitoring of interrogation methods;
- expedite the release of pre-trial detainees, beginning especially with the most vulnerable groups, such as children, women, the elderly, and those requiring medical treatment
- ensure the separation of children from adults as well as women from men in detention facilities;
- abolish all forms of corporal punishment, and take further steps towards the abolition of capital punishment;
- establish effective mechanisms to enforce the prohibition of violence against women including traditional practices such as FGM, and continue awareness-raising campaigns to eradicate such practices, and expedite the adoption of the Violence against Women Bill;
- ratify the Optional Protocol to the Convention against Torture, and establish effective national mechanisms to carry out preventive and unannounced visits to all places of detention;
- fight corruption in the police and prison system by ensuring adequate salaries to law enforcement and prison personnel.

The Special Rapporteur will submit a comprehensive written report on the visit to the United Nations Human Rights Council.

Mr. Nowak was appointed Special Rapporteur on 1 December 2004 by the United Nations Commission on Human Rights. As Special Rapporteur, he is independent from any government and serves in his individual capacity. The Commission first decided to appoint a special rapporteur to examine questions relevant to torture in 1985. The mandate, since assumed by the Human Rights Council, covers all countries, whether or not they have ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Mr. Nowak has previously served as member of the Working Group on Enforced and Involuntary Disappearances; the UN expert on missing persons in the former Yugoslavia; the UN expert on legal questions on enforced disappearances; and as a judge at the Human Rights Chamber for Bosnia and Herzegovina. He is Professor of Constitutional Law and Human Rights at the University of Vienna, and Director of the Ludwig Boltzmann Institute of Human Rights.

For further information on the mandate of the Special Rapporteur, please visit the website: <http://www.ohchr.org/english/issues/torture/rapporteur/index.htm>