



a joint programme  
 **fidh**  
The Observatory  
for the Protection  
of Human Rights Defenders



# NIGERIA:

Defending

Human Rights:

Not Everywhere

Not Every Right

International Fact-Finding Mission Report

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April 2010  
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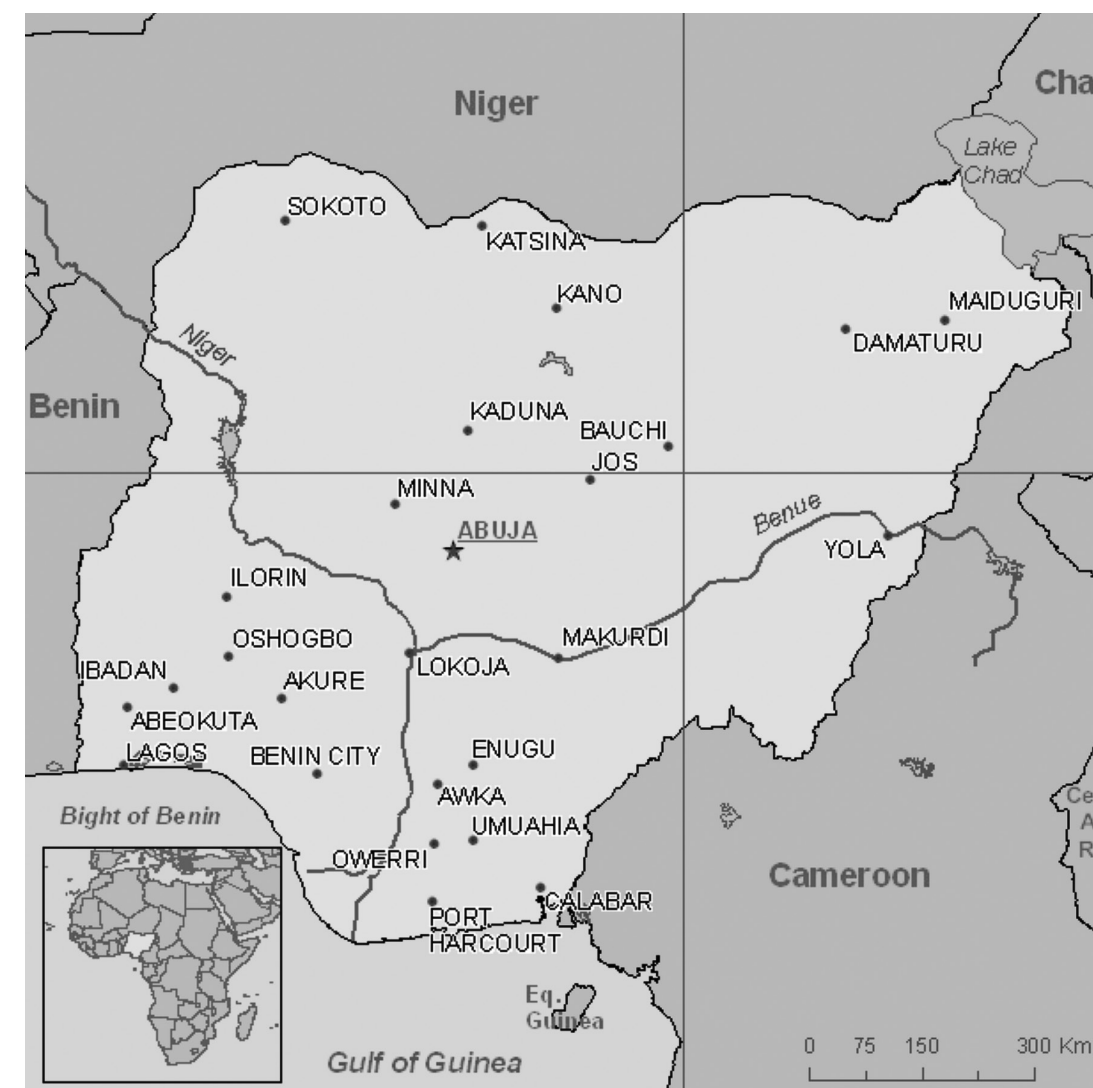
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Directors of publication: Eric Sottas, Souhayr Belhassen, Mary Lawlor  
 Authors of the report: Corlett Letjolare, Connie Nawaigo, Andrea Rocca  
 Edition and coordination: Delphine Reculeau, Alexandra Poméon O' Neill  
 Design: MOSTRA SARL  
 Printed by OMCT



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## ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights
AIT	DAAR Communications Plc
CAC	Corporate Affairs Commission
CAMA	Companies and Allied Matters Act
CEHRD	Centre for Environment, Human Rights and Development
CLO	Civil Liberties Organisation
EFCC	Economic and Financial Crimes Commission
ERA	Environmental Rights Action
FIDH	International Federation for Human Rights
HRC	Human Rights Council
IYC	Ijaw Youth Council
JTF	Joint Task Force
LGBT	Lesbian, Gay, Bisexual and Transgender
MOSOP	Movement for the Survival of the Ogoni People
NBC	National Broadcasting Council
NHRC	National Human Rights Commission
NGO	Non-Governmental Organisation
NPC	Nigeria Press Council
NDDI	Niger Delta Development Initiative
OMCT	World Organisation Against Torture
SSS	State Security Service
UN	United Nations

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## INTRODUCTION

### 1. Delegation's composition and objectives

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The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), and Front Line carried out an international fact-finding mission to Abuja and Lagos, Nigeria, from November 7 to 12, 2008.

The fact-finding mission delegation included Ms. Corlett Letlojane, Director of the Human Rights Institute of South Africa (HURISA), Ms. Connie Nawaigo, Projects Lawyer of Human Rights Training and Public Education at Zimbabwe Lawyers for Human Rights (ZLHR), and Mr. Andrea Rocca, Senior Protection Coordinator at Front Line.

The mission coincided with the 44th session of the African Commission on Human and Peoples' Rights (ACHPR), held in Abuja, Nigeria, from November 10 to 24, 2008. The Observatory and Front Line then decided to take this opportunity to investigate the situation of human rights defenders in Nigeria. It is also worth mentioning that the State report of the Federal Republic of Nigeria was considered during this session.

The objectives of the mission were to assess the situation of Nigerian human rights defenders, through:

- a panorama of the main actors of the civil society operating in the country (both defenders of civil and political rights and of economic, social and cultural rights);
- the investigation on the patterns of persecution of human rights defenders and identification of the perpetrators of these violations;
- the collection of first-hand information and testimonies on the situation of human rights defenders, and the risks they face, with a focus on the rights to freedom of association, freedom of expression, peaceful assembly and the right to a fair trial/effective legal remedies as enjoyed by human rights activists such as members of non-governmental organisations (NGOs), trade-unionists, independent journalists and students activists;
- the investigation on the capacity or willingness (or lack thereof) of Nigerian institutions to offer effective protection to human rights defenders.

### 2. Methodology

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The methodology adopted for this report was in four stages. First, the Observatory for the Protection of Human Rights Defenders and Front Line developed a framework including guidelines and modalities for the fact finding mission. Local partners were identified. This process enabled the mission delegation to effectively plan and implement the programme and have access to all relevant stakeholders.

The second phase consisted of the literature review. An extensive literature review was conducted on documents such as the Nigerian Constitution, labour legislation, case law and key decisions and judgments, NGO reports, academic literature as well as international and

regional treaties to which Nigeria is party. The literature review assisted the mission delegation to refine and consolidate the research methodology. It also enhanced modalities developed for the fact finding mission.

The third phase consisted of field research through the interviews carried out during the mission itself. The delegation was able to meet and interview senior officials of Lagos State institutions, including the Director of the Directorate for Citizen's Rights of Lagos State Ministry of Justice, as well as representatives of the National Human Rights Commission. The delegation further met key leaders and various representatives of civil society organisations and trade unions, as well as journalists and lawyers.

The fourth phase consisted of collecting supplementary information and updates from NGOs and human rights defenders met in the course of the field mission.

An exhaustive list of the individuals and entities met can be found in Annex 1.

### 3. Acknowledgements

The Observatory for the Protection of Human Rights Defenders, Front Line and their *charges de mission* would like to thank the CLEEN Foundation and BAOBAB for Women's Human Rights for their assistance in the organisation of the fact-finding mission. They also would like to thank CLO for the information provided throughout the process.

We also wish to thank all human rights defenders who accepted to meet us and share information on the challenges and risks they face in their daily work as human rights defenders.

## Summary of key findings

**Since the end of the military rule in 1999, the human rights situation in Nigeria has improved significantly. This has resulted in a more favourable environment for human rights activities and many human rights defenders feel they can now work relatively freely. However, this is particularly true for mainstream organisations working in major cities. Human rights defenders working in certain regions of the country or on certain human rights issues continue to face serious challenges.**

**In the Niger Delta, the heavy militarisation particularly affects the work of human rights defenders, and there are frequent instances of attacks and intimidation.**

**Some issues like corruption, good governance and impunity are also particularly sensitive, and human rights defenders, including media practitioners, may face retaliation for their work documenting and denouncing abuses .**

**Working on gender and women's rights is particularly challenging in the northern part of the country, in the States where Sharia law is enforced.**

**Defenders working on discrimination against lesbian, gay, bisexual and transgender (LGBT) people face specific risks throughout the country and often fear for their security.**

**Furthermore, despite improvements since the military rule ended, the legislative framework remains insufficient to ensure adequate protection to the work of human rights defenders. The Government seems to be willing to reinforce domestic human rights mechanisms by, for example, introducing human rights desks in some police stations. However, it has at the same time undermined the independence and effectiveness of its National Human Rights Commission. The Government has also failed to amend existing legislation and pass new legislation that would facilitate the work of human rights defenders, including in particular a law guaranteeing access to information.**

## I. HISTORICAL, ECONOMIC, GEO-POLITICAL AND INSTITUTIONAL BACKGROUND

With a total land area of 923,768 sq km and a population of over 140 million, (51.2% male and 48.8% female), Nigeria is the country in Africa with the largest population. The country has more than 250 separate ethnic groups, many of which either had no meaningful relationships with one another or long histories of mutual antagonism prior to the advent of colonialism, and 500 indigenous languages. It is a multi-religious country, with Islam and Christianity as the two predominant religions. Nigeria is also the second largest economy in Sub-Saharan Africa, accounting for 41% of West Africa's GDP. The economic reforms embarked by Government have shown positive results in several areas, including a real growth rate of 9% in 2008<sup>1</sup>.

Between 1990 and 2007 Nigeria's Human Development Index (HDI) rose by 0.91% annually from 0.438 to 0.511 today, which gives the country a rank of 158th out of 182 countries with data<sup>2</sup>. In addition, the Human Poverty Index (HPI-1) value of 36.2% for Nigeria, ranks 114th among 135 countries for which the index has been calculated<sup>3</sup>.

Nigeria has a federal system of government with power shared among three tiers of Government: Federal, State (36) and Local Governments Areas (774). The Constitution has vested each tier of government with powers in its area of jurisdiction. There are also three legal systems in operation in the country: Common Law, Islamic Sharia and Customary Law (based on tradition and customs). The Supreme Court is the apex court with jurisdiction to hear cases from lower courts, including the Sharia Court of Appeal and the Customary Court of Appeal<sup>4</sup>.

### 1. Historical overview<sup>5</sup>

Until amalgamation in 1914, the territories that now make up northern and southern Nigeria were administered by British authorities as two separate colonies. Nigeria achieved independence in 1960.

Nigeria's post-independence history was overshadowed by the depredations of a series of corrupt, abusive, and unaccountable governments. Between independence in 1960 and 1999, Nigeria produced only two elected governments and both were overthrown in military coups before completing a second term in office. Nigeria's military ruled the country for nearly 30 of its first 40 years of independence.

The 1999 elections that brought President Olusegun Obasanjo to power were marred by widespread fraud. The 2003 elections were more pervasively and openly rigged than the flawed 1999 polls, and far more bloody. More than 100 people died in the two weeks surrounding the voting itself, many in political clashes spawned by politicians' efforts to employ and arm criminal gangs to defend their interests and attack their opponents.

<sup>1</sup> See UN Document A/HRC/WG.6/4/NGA/1, Human Rights Council, Working Group on the Universal Periodic Review, National Report Submitted by Nigeria, January 5, 2009.

<sup>2</sup> The HDI provides a composite measure of three dimensions of human development: living a long and healthy life (measured by life expectancy), being educated (measured by adult literacy and gross enrolment in education) and having a decent standard of living (measured by purchasing power parity, PPP, income). See UNDP, *Human Development Report 2009*, section on Nigeria.

<sup>3</sup> The Human Poverty Index focuses on the proportion of people below certain threshold levels in each of the dimensions of the human development index - living a long and healthy life, having access to education, and a decent standard of living. Its measures severe deprivation in health by the proportion of people who are not expected to survive to age 40. Education is measured by the adult illiteracy rate. And a decent standard of living is measured by the unweighted average of people not using an improved water source and the proportion of children under age five who are underweight for their age. See UNDP, *Human Development Report 2009*, section on Nigeria.

<sup>4</sup> See UN Document A/HRC/WG.6/4/NGA/1, Human Rights Council, Working Group on the Universal Periodic Review, National Report Submitted by Nigeria, January 5, 2009.

<sup>5</sup> See Human Rights Watch, *Criminal Politics, Violence, "Godfathers" and Corruption in Nigeria*, October 11, 2007.



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Elections for Nigeria's 774 local government councils were held in 2004 and followed much the same pattern of violence, intimidation and fraud that characterized the 2003 general elections.

In the framework of the April 2007 elections, which saw the election of President Umaru Musa Yar'Adua, elected officials, alongside the Government agencies charged with ensuring the credibility of the polls, reduced the elections to a violent and fraud-riddled farce. Across much of the country, armed gangs in the employ of politicians raided polling stations and carried off ballot boxes. Electoral officials reported massive turnout figures in areas where no voting took place at all. In many areas, ballot boxes were openly stuffed or results fabricated out of thin air.

## **2. Nigeria's historical track of human rights: a difficult environment for human rights defenders**

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Nigeria has a bad historic track record for human rights. It has survived dictatorial regimes and military juntas since its independence in 1960. Violations of human rights including torture, suppression of freedoms of association and expression, detention without trials, abuse of rule of law and due process, excessive lawlessness, extra-judicial executions, expulsion from school and dismissal from work without a fair hearing, joblessness, unpaid salaries, pensions and gratuities for years, corruption, violations of women's rights, discrimination against lesbians, gay, transgender and bisexual (LGBT) people, misappropriation of public resources, weak and inefficient oversight mechanisms have grown to become the country's scourge and worst enemy resulting in a legacy of underdevelopment and abject poverty for the majority of the country.

When the country was finally ushered into a democratic State in 1999, the new leadership under Chief Olusegun Obasanjo announced that they were determined to root out corruption and a culture of violation of human rights. The walk to build accountability and human rights protection has not been easy and still needs commitment from all stakeholders to achieve long term solutions to overcome the deep-rooted socio, political, cultural and religious problems.

However, despite the transfer of power from the military to the civilians in May 1999, Nigeria continues to face violations of its citizens rights by both State and non-State actors, large scale corruption<sup>6</sup> and ethnic clashes.

Human rights defenders were systematically targeted during the military regimes. They were tortured, arbitrarily arrested, charged and imprisoned on politically motivated charges of treason, or extra-judicially executed. The judiciary was highly compromised and the police were largely militarised.

Despite the repressive environment, human rights defenders monitored and documented the human rights violations committed by the authoritarian regime of the day. They played a key role in the eventual birth of the civilian rule of Chief Obasanjo and, most recently, the election of another civilian President Umaru Musa Yar'Adua in May 2007.

The transition to civilian rule brought about an environment where human rights defenders operate relatively freely. The majority of the defenders met acknowledged that, generally, people can speak out and criticise, and that human rights are present in the public debate.

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<sup>6</sup> In 1999 Nigeria was ranked the most corrupt nation by Transparency International. According to the 2008 Corruption Perception Index it now ranks 121<sup>st</sup> out of 180 countries. The widespread corruption in Nigeria is central to the violation of socio-economic rights, with emerging facts proving that over 80% of the annual budgets of the three tiers of Governments in Nigeria (Federal, State and Local) went into private pockets.

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For mainstream organisations based in major urban areas, the challenges are mainly due to the difficulty to mobilising the public on human rights violations, a lack of cooperation from the authorities, as well as the donors' approach of favouring projects based on cooperation with the Government. This favouritism results in fewer resources available for those organisations which focus on denouncing persisting human rights violations. Lack of capacity and resources were also identified as challenges affecting most human rights defenders. Most operate under financial constraints making collaborative strategies and networking very difficult.

Some federal laws in place continue to limit the environment within which human rights defenders operate. There is government intolerance of defenders working on certain supposedly sensitive issues. This has led to continued harassment by public agencies of defenders working on matters like democratic governance, elections, corruption and economic rights.

More severe challenges are faced by defenders working in certain areas of the country. The Niger Delta, in particular, with a high level of militarisation and insecurity, is perhaps the region where defenders are most at risk. The Niger Delta question remains indeed the key human rights concern in the country with conflicts going on in Bayelsa, Delta and River States over claims by the local population of unfair distribution of income and inadequate infrastructure in the oil-rich Niger Delta. Fighters took up arms in 2006, demanding a more equal distribution of the country's oil wealth. For decades, the region has been subjected to the exploitation of resources by transnational oil companies and the Government, accompanied by environmental contamination, expropriation of farmlands, increased militarisation, etc. The security forces, including the military, also keep committing human rights violations, including extrajudicial executions, torture and other ill-treatment and the destruction of homes. Communities in the Delta whose human rights are affected by oil operations face difficulties in securing remedy and redress<sup>7</sup>. The Federal Government's Internal Taskforce (ITF) in the region is also reported to have "sacked" several villages without legitimate grounds while trans-national oil corporations have continued to loot, pollute and desecrate the environment of the region. Citizens of the region have been harassed, detained and prosecuted by the Government, with some ethnic rights activists having been christened "militants" by Government and oil companies<sup>8</sup>. Violence subdued in mid-2009 following calls for amnesty. On October 19, 2009, Nigerian President Umaru Yar'Adua held his first-ever meeting with Henry Okah, the presumed leader of the Movement for the Emancipation of the Niger Delta (Mend), which is the main rebel group in the Niger Delta. Henry Okah was freed in July 2009 after nearly two years in jail after treason and gun-running charges against him were dropped under an amnesty offer. Recently, the Government intensified efforts to end the Niger Delta crisis, offering unconditional amnesty to thousands of militants. The Government also committed to invest 10 percent of the money it makes from Niger Delta oil back into the region. On November 20, 2009, the European Commission signed a 677 million Euro deal to help Nigeria tackle challenges in its restive oil-producing region, promoting peace, good governance and trade.

Moreover, there is a general lack of awareness of the concept of 'human rights defender', the international framework for their protection, the defenders' entitlement to specific protection measures in relation to their particular exposure inherent to human rights work and the corresponding State's obligations to protect defenders and ensure a favourable environment. As a result, many defenders in Nigeria work on the assumption that certain risks are inherent to human rights work, rather than being violations of their rights as human rights defenders.

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<sup>7</sup> See Annual Report 2009 of the Observatory for the Protection of Human Rights Defenders.

<sup>8</sup> See Civil Liberties Organisation (CLO), with the support of FIDH, *Submission for the Universal Periodic Review of Nigeria for February 2009*, September 2008.

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## II. NIGERIA AND ITS INTERNATIONAL AND REGIONAL COMMITMENTS

Nigeria has ratified several human rights instruments including the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol on individual communications, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, and the Convention on the Rights of the Child (CRC).

It is party to the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, and the African Charter on the Rights of Women in Africa. Interestingly enough, Nigeria is the only country in Africa that has domesticated the African Charter on Human and People's Rights. However, the constitutional provision declaring economic, social and cultural rights that are not justiciable contradicts the Charter. Therefore, Nigeria cannot be held accountable by domestic courts for the lack of enforcement of basic rights including the right to health, potable water, social assistance, education and food.

Particularly in recent times, Nigeria has sought visibility in international fora. In 2006, it presented its candidature and was elected as a member of the Human Rights Council (HRC) of the United Nations (UN). In June 2008, it was elected as President of the HRC, office that it held until June 2009. Responsibility to protect and promote human rights is a primary role of States and abidance by all their commitments is promoted by the HRC. Nigeria's commitment to human rights was confirmed through the words of the then newly elected HRC President: "Failure to advance the aims and objectives of the Human Rights Council collectively by all nations, all peoples and all institutions will be a colossal failure of humanity to protect its own dignity and rights under the rule of law and agreed norms and practices"<sup>9</sup>. Furthermore, in November 2008, Nigeria hosted the 44th session of the African Commission on Human and People's Rights (ACHPR) and President Umaru Musa Yar'Adua was elected in December 2008 for one year as the new Chairman of the Economic Community of West African States (ECOWAS).

However, this engagement at the international level has not been accompanied by adequate measures to involve civil society. It is reported, for example, that no publicity was given to the fact that the 44th session of the ACHPR, during which the human rights situation in Nigeria was reviewed, was being held in Abuja. Also, as it is reported below, membership of the HRC has not been accompanied by effective measures to improve the domestic human rights situation as pledged at the time of the election.

The Special Representative of the UN Secretary-General on the situation of human rights defenders carried out a visit to Nigeria in 2005. All defenders interviewed were asked about the 2005 visit and the status of implementation of the Special Representative's recommendations. Surprisingly, very few of the defenders met were aware of the visit, and those who were aware reported that the Government made no efforts to implement the recommendations. The Secretary-General of the National Human Rights Commission as well as the Director of the Directorate for Human Rights of the Lagos Ministry of Justice met during the mission and were unaware of the 2005 visit and the Special Representative's recommendations.

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Finally, on February 9, 2009, Nigeria was reviewed during the fourth session of the Working Group on the Universal Periodic Review (UPR), which was held from February 2 to 13, 2009. In that framework, the Government stressed that, in preparation for its review, Nigeria conducted a truly broad national consultation. A National Consultative Forum (NCF) was held during two days in Abuja in November 2008 to which the civil society was invited as well as stakeholders from nearly all the States of the Federation. During the Forum, every human rights issue was openly discussed and participants were able to express their views freely. Unfortunately some of the concerns raised were not reflected in the first draft report of the Government. Some members of the civil society complained and hence the Ministry called for a second stakeholders meeting. At that meeting, the Ministry admitted that the concerns raised at the first consultation were not well reflected in the first draft report. In the end, the outcome of the NCF was fairly reflected in the National Report submitted by Nigeria<sup>10</sup>.

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<sup>9</sup> Martin Ihoeghian Uhomobhi, Nigerian Ambassador, elected on 19 June 2008 as President of the UN Human Rights Council.  
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<sup>10</sup> See UN Document A/HRC/11/26, Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review - Nigeria, March 3, 2009.  
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### III. CONSTITUTIONAL AND LEGISLATIVE FRAME- WORK RELEVANT TO HUMAN RIGHTS ACTIVITIES

The Constitution of Nigeria is the supreme law of the land and includes specific provisions protecting human rights and fundamental freedoms<sup>11</sup>. In particular, the Bill of rights contained in Chapter IV of the Constitution (Articles 33-46) provides for the right to life; right to a fair trial, including the right to defence or legal representation; the right of every person to freedom of thought, conscience and religion including freedom to change religion or belief; the right to freedom of expression including freedom to hold opinions and to receive and impart ideas and information without interference; right to assemble freely and associate with others; the right to freedom of movement; the prohibition of torture and other cruel, inhuman and degrading treatment; and, the right to an effective remedy and redress in instances where these rights have been violated.

The Constitution also contains provisions on economic, social and cultural rights. However, the Constitution qualifies them as non-justiciable, in contradiction to international and regional human rights treaties. Furthermore, not all civil and political rights enjoy full protection in practice. For example, while the right to strike is guaranteed, strikes in solidarity with other workers are prohibited<sup>12</sup>.

Nigeria has set up mechanisms and adopted laws aimed at ensuring respect for human rights, including for example the establishment of the National Human Rights Commission in 1995 and the creation of State Directorates for Citizen's Rights<sup>13</sup>. However, there still exist many pieces of legislation which create an environment that puts the safety of human rights defenders at risk. This is aggravated by the Government's failure to introduce relevant domestic legislation after ratification of international instruments.

Translation of international and regional instruments into the domestic legal system is a major problem. Torture and ill-treatment by the police are reportedly frequent offences. However, and despite ratification of the Convention Against Torture (CAT), the Nigerian Criminal Code does not include provisions specifically punishing torture or at least introducing relevant aggravating circumstances when other provisions (e.g. assault) are used.

Although the Constitution protects civil and political rights for all and prohibits discrimination, many laws are still in place that sustain patriarchal society, which include furthering stereotypes that encourage and maintain gender inequality. Such laws offer no protection and development to vulnerable groups, such as women and girls but also people with disabilities or minorities, including sexual minorities. Gender inequality is prevalent and institutionalised discrimination against women is also common. Even when specific pieces of legislation exist, as it is the case in relation to gender equality and non-discrimination, they often remain not implemented.

#### 1. Freedom of Association

Freedom of association is protected under Article 40 of the Constitution and human rights defenders can generally form and operate non-governmental organisations (NGOs) without Government interference, unless they are viewed as a threat to Government policy. Registration of NGOs falls under Part C of the Companies and Allied Matters Act (CAMA) of 1990. Separate laws regulate specialised organisations such as trade unions and political parties.

Under the current legislation, registration or incorporation is not mandatory in Nigeria. Nevertheless, according to the Special Representative of the Secretary General on Human Rights Defenders following her visit in Nigeria in 2005, donors increasingly require organisations to be duly registered before providing funds<sup>14</sup>.

NGOs can register under CAMA either as a "company limited by guaranty", which confers the status of a corporate body on the NGO itself, or as an "incorporation of trustees", which grants the trustees of the NGO rather than the organisation itself the status of a corporate body.

Registration of a company limited by guaranty is performed by the Corporate Affairs Commission (CAC), which verifies the availability of the proposed name. Few organisations, however, are registered as companies limited by guaranty, largely because of the bureaucracy involved in applying for the consent of the Attorney-General who may, at his discretion, withhold consent. Most NGOs therefore register as incorporated trustees under Section 673 of CAMA. It is noteworthy that there is no minimum requirement in terms of members or capital for the registration, which is open to physical and legal persons. Human rights defenders unanimously reported that despite this apparently liberal regulation, in practice registering as incorporated trustees can also prove to be a long road encumbered by bureaucratic obstacles, heavy expenses and uncertainty regarding the response to their application<sup>15</sup>.

Section 30 of the CAMA states the restrictions that apply to registration of any company or organisation under the Act:

(a) is identical with that by which a company in existence is already registered, or so nearly resembles that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the Commission requires; or  
(b) contains the words "Chamber of Commerce" unless it is a company limited by guarantee; or  
(c) in the opinion of the Commission is capable of misleading as to the nature or extent or its activities or is undesirable, offensive or otherwise contrary to public policy; or  
(d) in the opinion of the Commission would violate any existing trade mark or business name registered in Nigeria unless the consent of the owner of the trade mark or business name has been obtained.

(2) Except with the consent of the Commission, no company shall be registered by a name which-

(a) includes the word "Federal", "National", "Regional", "State", "Government", or any other word which in the opinion of the Commission suggests or is calculated to suggest that it enjoys the patronage or the Government of the Federation or the Government of a State in Nigeria, as the case may be, or any Ministry or Department of Government<sup>16</sup>; or  
(b) contains the word "Municipal" or "Chartered" or in the opinion of the Commission suggests, or is calculated to suggest, connection with any municipality or other local authority; or  
(c) contains the word "Co-operative" or the words "Building Society"; or  
(d) contains the word "Group" or "Holding".

Some of the defenders interviewed reported that the registration procedure is long and can take from a few months up to a year. Some also reported that the procedure is burdened by high levels of corruption among Government officials, which makes it expensive an otherwise relatively inexpensive process. Registration becomes more expensive in cases

<sup>11</sup> Constitution of the Federal Republic of Nigeria 1999, Section 33-44.

<sup>12</sup> Trade Union Amendment Act 2005.

<sup>13</sup> For instance, the Directorate for Citizen's Rights in Lagos was created in 1999.

<sup>14</sup> See UN Document E/CN.4/2006/95/Add.2, *Report of the Special Representative of the Secretary General on Human Rights Defenders, Mission to Nigeria*, January 30, 2006.

<sup>15</sup> *Idem*

<sup>16</sup> For instance, it was on the basis of this restriction that the Centre For Law Enforcement Education Nigeria could not get registered as had to use the acronym CLEEN Foundation instead.



where it is denied and the intervention of lawyers is required<sup>17</sup>. While registration is generally granted, NGOs perceived as too critical of the Government may face difficulties. For example, the Movement for the Survival of the Ogoni People (MOSOP), a very active organisation working on minority rights in the Delta, has been denied registration despite the several applications filed over the years. This is reportedly to ascribe to its often critical stances, as it was informally confirmed to MOSOP by public officials. In another case, reported further below, an organisation working on discrimination against LGBT people<sup>18</sup>, was denied registration three times. Each time, the authorities had alleged issues with the proposed name, despite the fact that the name had been changed<sup>19</sup>. In another case in the Delta region, the Niger Delta Development Initiative (NDDI) had to change its name and statute and renounce having human rights education as one of the core activities in order to obtain registration. As these cases illustrate, the problems regarding the creation and registration of NGOs do not stem from the law itself but rather from how it is applied by the relevant authorities.

## 2. Freedom of Peaceful Assembly

Article 40 of the Constitution provides for freedom of peaceful assembly and the Government generally respects this right, although restrictions remain. As in previous years, police and security forces banned several public meetings and demonstrations during the year 2008.

The police in Nigeria have used the Public Law and Order Act (Chapter 382), that was promulgated as a decree under the military regime in 1979, to disrupt public gatherings and muzzle human rights defenders and political activists. Section 1(3) of the Public Law and Order Act states that persons must obtain a license in order to conduct any assembly or meeting or any processions on the public roads or places of public resort, 48 hours before the event. While the requirement of a permit for public assemblies is common to many countries, this law does not provide for judicial oversight or review mechanism in case the permit is denied. The law also gives the police discretionary powers to ban temporarily any public meeting in a given area<sup>20</sup>.

This law gives the Nigerian police power to break up meetings for which a license has not been obtained. A number of human rights defenders have been arrested under this legislation. The law narrowed the political space and often contributed to turn peaceful anti-Government protests violent. Police often resorted to this law during election periods. Whereas human rights defenders activities in support of issues that are seemingly non-political, such as women's rights, are granted authorisation, several rallies concerning issues perceived as "political" or sensitive, such as corruption, labour rights, or issues of democratic governance, were not authorised during the past years.

Through the Public Law and Order Act, the Nigerian Government has retained power over gatherings whose political, ethnic, or religious content might threaten its operation. Open-air religious services away from places of worship remained prohibited in many States due to religious tensions in these parts of the country. Human rights defenders highlighted that they have continued to face serious challenges due to abuses of the Public Law and Order Act. This was especially the case during the election period in 2007.

The Public Law and Order Act was challenged in court after police used tear gas to disperse an opposition rally back in 2003 in the northern State of Kano and after civil rights, pro-democracy organisations and opposition political parties gathered in 2006 at the Rockview Hotels, Abuja, to discuss and protest the unlawful sack of the then Executive Secretary of the National Human Rights Commission, Mr. Bukhari Bello. In a 2005 decision, the Federal High

<sup>17</sup> According to the information received, NGO registration costs about NGN 250,000 (about 1,160 €), including the charges from the lawyers - direct payment to the government is normally not up to NGN 100,000 (about 464 €).

<sup>18</sup> The name has been withheld for security reasons.

<sup>19</sup> See section V.4 below for further details.

<sup>20</sup> Section 4 (1), (2) and (3) of the Public Order Act.

Court found it unconstitutional and declared it null and void. The Appeal Court confirmed the decision in 2007. The police have however disregarded the court rulings and have continued to view protests staged without police authorisation as illegal.

The year 2008 was marked by several social protest that intended to denounce corruption in the country. These movements brought together civil society organisations, students associations, anti-corruption movements, workers and trade unionists to fight against corruption and corrupt rulers in Nigeria. They appeared in April 2008 in several cities including Lagos, Abuja, Enugu, Umuahia, Kaduna, Kano, Maiduguri and Oshogbo and were ongoing throughout the year. These actions were severely repressed. Similarly, in Oshogbo, Osun State, where the peaceful protest organised on July 11, 2008, to condemn the corrupt practices of the members of the Election Petition Tribunal set up to hear a case concerning the election of the Osun State Governor, Chief Olagunsoye Oyinlola, was also repressed by police officers at the request of the State Government. As a result, Mr. **Waheed Lawal**, Chairman of the Campaign for Democratic and Workers' Rights, and Mr. **Debo Adeniran**, Coordinator of the Coalition Against Corrupt Leaders (CACOL) as well as 22 other activists were arrested at Court Premises in Oshogbo, and detained until July 23, at Ilesha Prison. They were charged with "conspiracy", "disturbance of public peace", "unlawful gathering", "seditious statements on placards" and "seditious publications". However, the Supreme Court of Abuja upheld the 2007 Appeal Court ruling that the Public Law and Order Act was unconstitutional and ordered the release of the protesters under arrest in 2008. Later, they were released following mass protest of civil society and the ruling issued by the Supreme Court and the charges against them were abandoned<sup>21</sup>.

## 3. Right to a Fair Trial and Effective Remedy

Many human rights defenders in Nigeria work on the justice system and provide legal assistance to victims and prisoners. It was reported that fair trial guarantees are often violated and a high number of prisoners are held on remand without a trial for long periods of time far exceeding what is allowed by law. In some cases, suspects in police custodies do not have files opened up. In many cases, even if a file was opened, the police usually fail to forward it to the office of the Prosecutor, resulting in the person arrested remaining in police custody for an indefinite period of time.

The appalling situation of the justice system particularly affects human rights defenders when they are victims of abuses and violations. It is reported that most cases of abuses and attacks against defenders reported to the police remain unpunished. In many cases, defenders reported that no investigation had been opened. The general climate of impunity, including for attacks against defenders, foster the commission of further crimes by law enforcement agents. This is of particular concern in the Niger Delta due to the heavy presence of the police and the army, and their involvement in human rights violations, including acts of intimidation and harassment of human rights defenders.

## 4. Freedom of Expression and Freedom of the Media

All legal provisions regulating media operation at the time power was handed over to civilians in May 1999 has remained unchanged. Although there have been noteworthy gains in the status of media freedoms in Nigeria, with the Government opening up airwaves for radio, TV and print media to private individuals, there continues to be serious violations of the right to freedom of expression.

<sup>21</sup> See Annual Report 2009 of the Observatory for the Protection of Human Rights Defenders.



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The Government dominates national broadcast media. While the Government has granted licenses to private companies for print media at the national level, this is not the case for national privately owned radio and TV broadcast. The only option for a private company is to acquire licenses for each of the six geopolitical areas in which Nigeria is divided, which makes it economically not viable. As a consequence, these licensed private televisions and radio stations operate within certain areas or regions of the country and do not cover the entire country or may not be received in all the areas of Nigeria.

Authorities are often intolerant of journalists who are critical of the Government, especially when they report on issues of corruption, State violence, and lack of good governance. Human rights defenders met by the mission delegation noted that the army and police are especially suspicious and intolerant of journalists and human rights defenders due to their exercise of freedom of expression and thus very hostile to them. The arrest of journalists is a very common practice in Nigeria<sup>22</sup>.

The findings from the interviews showed that the media continue to face serious challenges in the country irrespective of the touted democracy. It was highlighted that even though there are private media, public print and broadcast media continue to be controlled by Government as the Government is the one granting the license, and determines the kind of news and programmes they run. One of the tools used by the authorities is the requirement of a license for media to operate. In several cases, particularly in the Niger Delta, applications for media licenses have been rejected.

The Constitution provides for media independence and upholds the right of the media to criticise the State and hold it accountable for its actions. However, in practice the operation of the media activities is restricted by the wide ranging powers of the National Broadcasting Commission (NBC) and the Nigerian Press Council (NPC), which are the two main bodies regulating the media. Both of them are directly controlled by the Federal Government. There have been many examples of the NBC and the NPC acting in the interest of the Government, with critical private or non-federal media stations being subjected to sanctions including, in some cases, closure<sup>23</sup>. For instance, on September 16, 2008, *Channels TV* was closed by the State Security Service (SSS) and some of its staff arrested after broadcasting a report, previously made by the *Agence France Presse*, according to which the President was planning to resign due to his health condition. Following a protest organised by a coalition of human rights and pro-democracy organisations named the "United Coalition for Democracy", including members of the Nigeria Union of Journalists, Civil Liberties Organisation (CLO) and the Campaign for Democracy on September 20, 2008, the NBC lifted the suspension and the staff were released. However the NBC said that the SSS would be continuing its investigation into the TV station. Several arrests of on-line journalists posting political or satirical articles also took place in 2008<sup>24</sup>. For instance, on November 4, 2008, Mr. **Emmanuel Emeka Asiwe**, the Editor of the *Huhuonline* website, was released after being held for one week and interrogated by the State Security Service. He was not charged but the SSS said he was questioned about "matters of national security." Mr. Asiwe had been arrested at the Muritala Muhammed international airport on his arrival from the United States on October 28 to visit his sick mother and attend to family matters. Likewise, Mr. **Jonathan Elende**, of *ElenduReports*, was arrested on October 18, 2008 and held for eleven days following articles posted on his website. He had returned to Abuja from his base in the United States to make two documentaries about the current situation in the country. The authorities hardened their stance towards online publications after the satirically-captioned photos of President Umaru Musa Yar'Adua's young son posing with cars, money and a gun were posted on the Sahara Reporters website<sup>25</sup>.

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<sup>22</sup> See Media Alert , West Africa 2006-2007 Annual State of the Media Report.

<sup>23</sup> Nigeria Country Report Context, African Media Development, BBC World Service Trust, on downloads.bbc.co.uk/worldsv/trust, p.2.

<sup>24</sup> See Annual Report 2009 of the Observatory for the Protection of Human Rights Defenders.

<sup>25</sup> See below and Reporters Without Borders (RSF) Press Release, November 18, 2008.

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Restriction on media freedoms are further seen in Section 39.2 of the Constitution which gives an exclusive mandate to the President and the National Assembly to authorise ownership and operation of electronic media stations.

As long as the two media regulators are not provided with necessary safeguards to ensure their independence and continue to be closely controlled by the Government, media freedom in Nigeria cannot truly be realised.

## 5. Access to Information

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Nigeria has no law guaranteeing freedom of information. On the contrary, current laws and practices restrict public access to information. Indeed, there are a number of laws that hinder media freedom by obstructing media access to information through secrecy laws and criminalizing offences that affect the media industry and its professionals in their duty of gathering, processing and disseminating information. These laws include the Criminal Code Act, the Obscene Publications Act of 1961, the Newspaper (Amendment) Act of 1967 and the Defamatory and Offensive Publications Decree No. 441 of 1966.

Access is only granted to qualified actors, namely State bodies. Furthermore, weaknesses in the system of data collection and documentation within State bodies have resulted in defects and gaps in the information collected within public records. For example, prison authorities do not maintain proper and full records of inmates, and police authorities also do not properly record the number of people arrested and kept in police custody, or the charges pending against them. This has deprived defenders of the right to information about the victims they were defending.

The absence of sufficient information available hinders NGOs from not only assessing and monitoring the human rights compliance of public policies but also ensuring that they are implemented and holding public authorities accountable. There have been steps to advocate for the right to access information. Civil society actors started campaigning for the adoption of a freedom of information Bill, which was first introduced in the National Assembly in October 1999. It was passed by both Chambers of the National Assembly in February 2007 and transmitted to then President Obasanjo for his signature. However, President Obasanjo declined to assent to the Bill and refused to transmit it back to the National Assembly with his reasons as required by the Constitution, thereby ensuring that the National Assembly could not override his veto during the past Parliament. The Bill was re-introduced into both Chambers of the National Assembly in June, 2007 but it has suffered interminable delays and disruption by vocal opposition that appears to enjoy the quiet support of the leadership of both Chambers. The Bill on freedom of information was again presented to Parliament in 2008. Human rights defenders voiced their concern that the Bill is restrictive and encourages secrecy in governance and lack of participation. The Bill only grants limited access to information in that it only covers access by journalists. In addition, the Bill provides that the person seeking access to the information must prove that its disclosure is not prejudicial of State security. A positive time clause according to which permission would be deemed granted, unless a formal refusal has been issued within a certain time frame, was taken out of the text.

However, addressing a World Bank-sponsored training for journalists on November 2, 2009, Hon. Ahman Pategi (PDP Kwara) informed his audience that "the Freedom of Information Bill will not be passed into law by the National Assembly before the tenure of the current administration will expire". Notwithstanding the fact that the Freedom of Information Bill

has been pending before the National Assembly for the past ten years and is supposedly sponsored by the senior legislators in both Chambers, including leading officers of the National Assembly, Hon. Pategi was quoted as saying that there was insufficient time and support for the passage of the Bill. On January 14, 2010, the Speaker of the House of Representatives decided to stand down legislative consideration of the Freedom of Information Bill<sup>26</sup>.

Nevertheless, at State level, there seem to be some progress coming from Lagos State, where the Lagos State House of Assembly promised to pass a State freedom of information Bill by January 2010.

Parallel to the lack of an organic law guaranteeing freedom of information, another impediment is represented by the Official Secrets Act of 1962, which makes the transmission of classified information an offence and prohibits access to places designated as protected. Classified information is defined as that which should not be disclosed to the public and of which the disclosure to the public would be prejudicial to the security of Nigeria. As a result of this lack of access to information, human rights defenders' actions aimed at monitoring public policies and practices are restricted<sup>27</sup>.

<sup>26</sup> See Right to Know (R2K) Statements, November 5, 2009 and January 18, 2010.

<sup>27</sup> Nigeria Country Report Context, African Media Development, BBC World Service Trust, on [downloads.bbc.co.uk/worldsv/trust](http://downloads.bbc.co.uk/worldsv/trust), p.12.

## IV. DOMESTIC OVERSIGHT MECHANISMS

### 1. The National Human Rights Commission

As a part of ensuring the protection of human rights, Nigeria established the National Human Rights Commission (NHRC) in 1995, which aims to promote and protect human rights. The NHRC monitors respect for human rights, investigates alleged cases of abuse and reports on the status of human rights in the country. It also assists victims in seeking redress, monitors prisons, engages in human rights education and helps the Government formulate policies on human rights. However, the NHRC was set up by a military decree and thus does not conform to the UN Principles on Independent National Human Rights Institutions (the Paris Principles) requiring that the NHRC be a statutory body. A Bill giving statutory nature to the NHRC has been pending before Parliament for the past six years but has not been adopted yet.

The Commission is headed by the Executive Secretary who is also the Chief Executive Officer (CEO). There are six departments in the administrative structure of the Commission namely: Admin, LID, Finance and Accounts, Public Affairs and Communications, Planning, Research and Statistics, and Monitoring and External Programmes. There are three units under the Executive Secretary's Office, namely, the Council Secretariat, Audit and Public Interest litigation Units. The Commission also has six zonal offices representing the six geo-political zones of the country, namely; North West Zone (Kano), North East Zone (Maiduguri), North Central (Jos), South West (Lagos), South East (Enugu) and South South (Port Harcourt). The Governing Council consists of 16 members made up of a Chairman who shall be a retired Justice of the Supreme Court of Nigeria or the Court of Appeal or a retired Judge of the High Court of a State and an Executive Secretary. The members of the Council are appointed by the President, Commander-In-Chief to represent a variety of interests as follows:

- i) Ministry of Justice; ii) Ministry of Foreign Affairs; iii) Ministry of Interior.
- Three representatives of registered human rights organisations in Nigeria;
- Two legal practitioners who shall not have less than ten years post qualification experience;
- Three representatives of the media, at least, two of whom shall be from the private sector;
- Three other persons to represent a variety of interests; and
- The Executive Secretary of the Commission .

As regards its funding, the NHRC receives mainly its funding from the Government . It also gets funds from external funding organisations too for specific programmatic interventions.

The 2005 report by the then UN Special Representative of the Secretary-General on Human Rights Defenders noted that while the NHRC was carrying out its activities in relative independence, legal guarantees of its independence were inadequate . This concern has unfortunately proved right as the Government has in recent years sought to maintain control of the NHRC. In June 2006, the Executive Secretary at the time, Mr. Bukhari Bello, was removed from his office on the order of the Minister for Justice after criticising the authorities for the harassment and intimidation of the media and journalists by national security agencies and following critical comments made on the attempt by the President to modify the Constitution to secure a third mandate . As the law regulating the NHRC has not been passed and the guarantees of its independence have not been strengthened, a similar situation may occur again. This situation has resulted in the current leadership of the NHRC not taking critical stances on sensitive issues. The Bello incident and the situation that ensued therefore reinforced civil society's perception of the NHRC as a Government body, rather than an independent one.

<sup>28</sup> Military Decree No. 22 of 1995.

<sup>29</sup> For more information about the NHRC, see <http://www.nigeriarights.gov.ng>.

<sup>30</sup> See the NHRC budget for 2009 at : [http://www.nigeriarights.gov.ng/index.php?option=com\\_content&view=article&id=59&Itemid=90](http://www.nigeriarights.gov.ng/index.php?option=com_content&view=article&id=59&Itemid=90)

<sup>31</sup> See UN Document E/CN.4/2006/95/Add.2, *Report of the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, Mission to Nigeria*, January 30, 2006.

<sup>32</sup> See Joint Press Release of the Observatory and the International Service for Human Rights (ISHR), June 23, 2006, Observatory Annual Report 2006 as well as Front Line Press Release, July 2, 2006.

It was also highlighted that, since the Government dismissed the governing council of several public bodies, including the NHRC, in November 2007, the Government has not taken the necessary steps to appoint new commissioners and failed to appoint a new Governing Council<sup>33</sup>. Hence, the NHRC is currently lead by its Executive Secretary only and this negatively impact on its work.

Moreover, on March 18, 2009, the Executive Secretary of the NHRC, Ms. Kehinde Ajoni, was removed, by letter from the Attorney General of the Federation and Minister of Justice, Mr. Michael Kaase Aondoakaa. Ms. Ajoni was appointed for five years and her contract was expected to end in 2011. Indeed, although the President is empowered under the statute of the Commission to remove the Executive Secretary or other members of the Governing Council, by the reason of the precedent laid by former Attorney General Mr. Bayo Ojo, it appears that the President may exercise that power by proxy through the Attorney General. In the case of Ms. Ajoni, she was "re-deployed" to the Ministry of Justice from where she was posted to be the legal adviser of the new Ministry of Niger Delta. Earlier, in November 2007, the entire Governing Council of the Commission was dissolved via a Government general circular. Since she was a member of the Council, it was officially alleged that she ought to have left with other members. The President appointed Barrister Roland Ewubare to replace her.

The NHRC does not have sufficient institutional safeguards, investigative powers or authority to compel authorities to respond to its queries. It is also reported that, while its investigative mechanism looks effective, its functioning is compromised by a serious lack of capacity and resources. For example, the central investigative team has only one vehicle available to cover the entire territory. Also, while the NHRC has six provincial offices across the country, access to victims is very limited. This state of affairs is particularly deplorable in light of Nigeria's pledge in becoming member of the UN HRC to strengthen the NHRC.

While civil society organisations generally maintain relations with the NHRC, in particular in the areas of legislative reforms and awareness-raising programmes, the quality of the relationship remains poor due to the NHRC's lack of independence and the fact that the scope of possible collaboration is limited to non-sensitive issues. A further result of this situation is that the role of the NHRC in protecting human rights defenders is rather limited. It was reported however that, under the mandate of the previous Executive Secretary, the NHRC intervened in the case of a member of the Open Society Justice Initiative who had to flee the country after receiving serious threats, and secured his return.

## 2. The Directorate for Citizens' Rights

At the State level, there may be other oversight mechanisms. An example is the Directorates for Citizen's Rights, which have been established by a number of States. The mission delegation met with the Directorate for Citizens' Rights of Lagos State, established in 1999 as part of the State administration's policy to provide greater access to justice through Government-funded legal defence, advice, mediation and human rights education. The Directorate, of which members are civil servants, was established within the Ministry of Justice and its main mission is to protect citizens' fundamental rights. The Lagos State Directorate is particularly active on child rights and prisons monitoring, offers free legal advice, and its reports have a major role in securing the release of people illegally kept in police custody well beyond the legal terms. The Directorate is empowered to oversee implementation of regional and international human rights instruments that are ratified by the Federal Government.

<sup>33</sup> The Council, appointed for a four-year term by the President on the recommendation of the Attorney General of the Federation and Minister of Justice, is responsible for the "discharge of the functions of the Commission".

The Directorate claims to be effective, despite limited resources, in providing legal assistance and ensuring access to a remedy for victims. High levels of corruption amongst security forces also seem to have created serious obstacles to the Directorate's work. Civil society organisations interviewed did not seem to have many relations with the Directorate, which can however be due to the Directorate's mandate (which is more towards the public in general).

## 3. The Human Rights Desks at police stations

In recent years, the police have established human rights desks at some of their stations. Human rights education would also have been included in the curriculum of the basic training of the police at the staff college and is carried out by various NGOs and national and State human rights institutions, including NHRC and the Directorate. Human rights desks are manned by police officers. The training they receive is from NGOs and development partners. There are no clear cut criteria for those posted to the desks. These desks are responsible for investigating complaints of police misconduct and non-compliance with established procedures including in relation to the length of police custody. However, defenders reported that human rights desks have not been created in as many police stations as claimed by the Government and that they are highly inefficient and corrupt. As a consequence, human rights defenders do not really interact with them.

## 4. The Police Service Commission and the Public Complaints Commission

The Police Service Commission was created by the 1999 Constitution. Its functions include: appointment, promotion and discipline of all officers except the Inspector General of Police. The Police Service Commission does not have a face with members of the public. It has chosen to be self restrictive.

There is also the Public Complaints Commission, which is a constitutionally created and autonomous body, established in 1990, with the aim of protecting vulnerable individuals against administrative injustices. Furthermore, it provides an opportunity for Nigerians, particularly the less privileged, to seek and obtain redress for their grievances at no cost and with minimum delay<sup>34</sup>. Its mandate includes getting complaints from members of the public, particularly complaints that are hinged on brutality to civilians by uniformed officers including the police.

However, according to the information received, those two commissions are not too effective.

<sup>34</sup> See UN Document A/HRC/WG.6/4/NGA/1, Human Rights Council, Working Group on the Universal Periodic Review, National Report Submitted by Nigeria, January 5, 2009.



## V. GROUPS OF HUMAN RIGHTS DEFENDERS AT PARTICULAR RISK

Several categories of human rights defenders are at particular risk due to issues covered in their human rights activities. This is particularly the case of defenders working on the human rights situation prevailing in the Niger Delta, those working on women's rights or LGBT rights in certain regions of the country and those working on corruption and good governance.

### 1. Defenders operating in the Niger Delta

The Niger Delta is perhaps the area of the country where the human rights situation is most worrisome. There have been continuous incidents of violations of the rights to health, clean environment, right to freedoms of expression and assembly, among others. It is reported that the various communities in the Niger Delta all face similar challenges. In particular, human rights defenders working on economic, social and environmental issues in the Niger Delta remain marginalised, and are more at risk of repressive action. The police, the military and oil companies through their security apparatus are often responsible for human rights violations.

The heavy presence of the military, in particular, severely affects the work of human rights defenders. The military and the police are in many cases involved in human rights violations against the population, including extrajudicial killings. It is reported that the military and the police extort money at roadblocks and there have been cases where they have reacted to refusals to pay by killing. Many of these cases have then been "mounted up" as robbery.

The work of defenders in monitoring and denouncing these violations makes them often a target of retaliation and violence. Due to the current conflict, increasing militarisation and human rights violations taking place in the Niger Delta, it is almost impossible for defenders to report on the situation without being perceived as political activists. In addition, many human rights defenders face increased insecurity and were sometimes forced to flee the region.

Defenders intervening in such cases have been arbitrarily arrested and on several occasions have had their documents confiscated. To give just some examples of many similar cases, at the end of October 2008, Mr. **Patrick Chiekwe**, President of Save Earth Nigeria (SEN), was blocked by the military police and had his camera's memory stick confiscated after he took pictures in relation to the killing of two children in Port Harcourt. In November 2008, Mr. **Isine Ibanga**, a journalist with the Punch Newspaper and member of CLO, was attacked and injured by police officials on patrol while walking to his residence in Port Harcourt, Rivers State. This attack coincided with recent threats against Mr. Ibanga and the Punch Newspaper by the Abonnema Local Government Area Chairman following a news story he reported concerning victims of rape by gun-carrying young men, against female members of the National Youth Service Corp, serving in the area<sup>35</sup>

In 2008 only, the Centre for Environment, Human Rights and Development (CEHRD) reported at least four more cases of harassment against human rights defenders and youth activists (i.e. young activists working in the community, often not necessarily affiliated to a formal organisation) involving ill-treatment, arbitrary arrest, threats and intimidation<sup>36</sup>.

On June 5, 2008, the SSS arrested Mr. **Samuel Allison** and Mr. **Henry Jumbo**, youth activists in Bonny Island, Rivers State. They were detained for three days, ill-treated and threatened that trumped-up charges of armed robbery would be brought against them. A few days before their arrest, they had started a campaign against the reportedly arbitrary dismissal by a local company of some of its employees. In February 2008, Mr. **Chris Ekiyor**, President of the Ijaw Youth Council (IYC) in Southern Ijaw Local Government Area, Bayelsa State, was assaulted by soldiers of the Joint Task Force (JTF)<sup>37</sup>. Mr. Chris Ekiyor was on his way to IYC elections in the Oporoma community when the soldiers accosted the group and attacked them with no reason. Two cases reported by CEHRD were directly linked to human rights defenders' work on environmental issues. On September 2, 2008, heavily armed soldiers surrounded and arrested twenty people in Iwhrekan community, Ughelli South Local Government Area, Delta State, including human rights defenders **Comrade Che Ibegwara**, 74 years old community leader and former trade unionist, **Chima Williams**, member of Environmental Rights Action (ERA), journalist **Felix Opute** and **Celestine Akpobari**. ERA had organised a visit to Iwhrekan community to raise awareness about environmental rights and educate residents on non-violent actions. They were later released following strong local mobilisation.

On October 22, 2008, the Eleme office of CEHRD was raided by a group of men led by the Managing Director of Dok Liaison Agency, a contracting firm to Shell. The group was after Mr. **Zabbey Nenibarini**, CEHRD Head of Environment and Conservation programme, who authored a report on oil spillage in the Bodo creek, Rivers State, which was very critical of Shell.

Likewise, on April 12, 2008, Mr. **Joel Bisina Dimiyen**, founder and Director of the Niger Delta Professional for Development (NIDPRODEV)<sup>38</sup>, was arrested at Oghara, in the Niger Delta, by about 25 uniformed soldiers and plain-cloth SSS personnel. Arrested along with four US filmmakers, Ms. **Sandy Cioffi**, Mr. **Cliff Worsham**, Mr. **Sean Porter** and Mr. **Tammi Sims**, while making a documentary about the region's petroleum industry and its impact on the life, economic and environment of the people of the Niger Delta, they were accused of travelling without military authorisation although no law in Nigeria says such a permit is necessary. They were questioned for six hours in Warri until Brig. Gen. Rintiip Wuyep, the local military commander, ordered their transfer to the headquarters of the State Security Service in Abuja. Their lawyer was not allowed to see them. While in detention, Mr. Bisina Dimiyen was subjected to ill-treatment. They were all released on April 16, 2008 without charge. Although no formal investigation was carried out from the Government, Mr. Bisina Dimiyen decided to take a court action against the Federal Government and the JTF and, on November 28, 2008, the Federal High Court of Nigeria decided to award Mr. Bisina Dimiyen five million Naira (about 23,671Euros) as damages for his detention. However, as of the end of 2009, the Government and the JTF had not respected the order of the Court.

Also, particularly exposed people are those participating in peaceful protests against human rights violations. An example is that of a road block organised by a group of women to protest against an oil company. It was reported that the women were beaten up by the company's security and the road block they had set up was violently removed. In April 2008, JTF soldiers attached to the Beta Glass Plc killed a young man of the local community who had gathered with others in protest for the alleged discharges of industrial waste into the community streams. When the crowd peacefully gathered outside the company premises, it is reported that the JTF fired at the protesters. In a similar case in November 2008, the JTF unit attached to the Chevron Nigeria headquarters opened fire against a group of protesters injuring five of them, who required hospitalisation.

Journalists are also targeted when reporting in particular on environmental issues, corruption and misuse of public funds in the region. In December 2008, the editor of the local news-

<sup>35</sup> See Annual Report 2009 of the Observatory for the Protection of Human Rights Defenders.

<sup>36</sup> See Centre for Environment, Human Rights and Development (CEHRD), Scorecard for 2008 - A report on the state of human rights abuse and violence in the Niger Delta region of Nigeria.

<sup>37</sup> The Joint Task Force is made up of combined troops of the Nigerian army, navy, air force and the mobile police, with the purpose of combating armed rebel groups in the Niger Delta.

<sup>38</sup> NIDPRODEV is a NGO operating in Nigeria since 1999, focusing on Conflict Mediation, Peace Building, Youth Empowerment, Gender Rights Issues, Democracy, Community Development and Good Governance in the Niger Delta.



papers, *The Niger Delta Details* and *Isoko Details Newspapers*, Mr. **Richard Ogbage**, was arrested by policemen from the Delta State Police Command Asaba. He was detained for several hours and harassed by the police allegedly on instructions from the Chairman of the Isoko South Local Government Area. It is reported that the arrest was in connection with an article published on Mr. Ogbage's newspapers alleging misuse of public funds. In September 2008, international attention was focused on the case of an American freelance journalist, Mr. **Andrew Berends**, who was abducted on September 2 by the JTF in the Port Harcourt Local Government Area of Rivers State for filming a deployment of a detachment of the JTF stationed there without having the required authorisation. Mr. Berends had legally entered Nigeria in April 2008 to complete a documentary on the region's oil conflict. He was later transferred to the SSS Abuja headquarters and released several days later.

It was also reported that organisations in the Niger Delta face additional challenges, compared to the rest of the country, in relation to their registration. NDDI was asked to change the name and its constitution in order to receive registration. It is reported, in particular, that they had to delete references to human rights education as one of the organisation's core activities<sup>39</sup>. MOSOP also informed the mission delegation that to date the Government has refused to register their organisation. They were informally told by Government officials that the organisation was seen as too critical.

State authorities in the Delta also allegedly infiltrate human rights organisations or create pro-Government organisations to counter-balance the critical reporting of independent groups. It was reported that at the end of October 2008 the State Governor convened a meeting with civil society organisations. The authorities claimed they had invited a number of organisations, including independent ones. However, the genuine representatives of those organisations did not receive the invitation and other people were invited instead as their representatives.

## 2. Defenders working on corruption and good governance

In the past years, State hostility towards public criticism of Government policies in certain sensitive areas has been growing. Corruption and good governance are such sensitive issues and there have been instances of defenders and journalists reporting on those issues being targeted and harassed. Civil servants working on such issues face risks as well.

A case that received significant media attention involved two members of the Economic and Financial Crimes Commission (EFCC), the body established to fight against corruption. In August 2008, Mr. **Ibrahim Magu**, former EFCC official, was arrested in connection with documents in his possession which it is believed were related to the EFCC's investigations into corruption at various levels of Government. When this fact-finding mission took place, Mr. Ibrahim Magu was still in detention and no charges were brought against him. On the same day, Mr. **Mallam Nuhu Ribadu**, EFCC Chairperson, who was investigating acts of corruption by top Government officials, was demoted from the post of Assistant Inspector-General of Police to Deputy Commissioner of Police as a way of intimidating him from releasing the facts and evidence about acts of corruption. In both cases, domestic and international anti-corruption groups reported that the arrest of Mr. Magu and the demotion of Mr. Ribadu were motivated by their work at EFCC.

On October 18, 2008, Mr. **Jonathan Elende**, a US-based Nigerian journalist publishing in the online news website *Elendu Reports*, was arrested at the airport upon his arrival in Nigeria.

<sup>39</sup> See above.

His arrest followed the publication of articles on Government corruption and the situation on the Niger Delta. He was released on October 28, 2008, without charges.

## 3. Media practitioners

On several occasions journalists have been attacked for reporting on human rights issues that the authorities did not want to be in the public domain.

A journalist who had gone to cover an all stakeholder meeting organised by the Ondo State Oil Producing Area Development Commission, the intervention agency established by the State Government to take care of the human and physical development needs of the oil-bearing communities, was assaulted by four Naval officers at the forward operation base of the Nigerian Navy in Ondo State. They descended on the journalist, slapped him, kicked him, dragged him to the ground and tore his shirt into shreds. They dealt him blows on his face, leaving him with a black eye and swollen lips while his spectacles were damaged. It took the intervention of the Governor Olusengu Agagu to rescue the reporter from the hands of the naval officers<sup>40</sup>.

Journalists were also assaulted by armed soldiers in Port Harcourt for trying to cover a demolition of illegal structures within a primary school. The soldiers also took their equipment.

Some broadcasting stations have also faced serious challenges of closure by the NBC, which in several cases has closed down media outlets for alleged unprofessional conduct. A radio station based in Kano, in the North West province of Nigeria, was banned from broadcasting specific political and human rights programmes between 17:00-22:00 hours GMT. When they were on air they had to pay a fine of 1,600 USD.

In 2006, at the time of the debate on constitutional reforms, the offices of AIT were put on fire. It is reported that this was motivated by AIT's position against the constitutional amendment allowing the President to seek a third mandate.

It was also reported that at times the Government used treason charges against journalists to force them to disclose their source of information.

## 4. LGBT defenders

Human rights defenders working on LGBT rights are particularly exposed to harassment and violations. While violations against other groups of defenders often come from the authorities, LGBT defenders are often targeted by the community and the public at large due to widespread societal hostility against homosexuality. In particular, the media all over the country display the same homophobic attitude towards LGBT people and activists.

Illustrative of the climate of hostility against LGBT rights is the statement provided by the Nigerian Ambassador to the UN in Geneva, who stated at the second session of the UN HRC that death by stoning for gay people is a "just and appropriate punishment" for unnatural sexual acts. LGBT people are often expelled from secondary schools and face discrimination in virtually all areas of life. Lesbians are often targeted for 'curative rape'. In a recent case, two men were heavily insulted by the public and threatened of stoning while they were brought to a Sharia court for sodomy. In that case, the federal police handed the two men

<sup>40</sup> See Media Alert (West Africa 2006-2007) Annual State of the Media Report.

to Sharia authorities because they could not charge them under the penal code. The media contribute to the negative stereotyping of gay people and are responsible for encouraging homophobia.

LGBT defenders are even more exposed to abuses due to the visibility they have as defenders. In one recent case, the names and pictures of a number of LGBT activists were published in several newspapers, which resulted in many of them having to go into hiding. They were all involved in the House of Rainbow, a religious group overtly open to LGBT people and advocating for their acceptance.

One of the defenders interviewed mentioned that he has often been subjected to verbal abuse and accused of bringing 'western ideas' into Nigeria. It was also reported that LGBT defenders face discrimination within the human rights community itself, which is not supportive of the issue they work on.

Hostility by society at large is fostered by the attitudes of State institutions and is reflected in legislation. Homosexuality is punished under Nigerian federal law under Article 214 of the Criminal Code, with up to 14 years' imprisonment, which is used to target LGBT defenders.

On January 19, 2006, Mr. Bayo Ojo, Minister for Justice, presented the "Bill for an Act to Make Provisions for the Prohibition of Relationships Between Persons of the Same Sex, Celebration of Marriage by Them, and Other Matters Connected Therewith" before the Federal Executive Council. The same day, the Council approved the text which prohibits, in particular, "the registration of gay clubs, societies and organisations by whatever name they are called (...) by Government agencies" (Article 7) and provides for a five-year prison term for any person involved in the registration of such organisations, or in the "organisation, sustenance, procession or meetings, publicity or public show of a same sex amorous relationship directly or indirectly, in public or in private" (Article 7-3). The Bill was introduced before the House of Representatives on March 30, 2006, and examined by the Senate in first reading on April 11, 2006. On this occasion, some of its provisions were extended so as to provide for prison sentences for any person who "goes through the ceremony of marriage with a person of the same sex" or "performs, witnesses, aids or abets the ceremony of same sex marriage" (Article 8). However, the Bill was never adopted<sup>41</sup>. Yet, during the public hearing of the "Same Sex Bill" at the National Assembly in March 2008, the media from all regions of the country displayed the same biased and hostile attitude towards LGBT people/activists with inciting and derogatory headlines.

Nevertheless, in March 2009 a new Bill, named Same Gender Marriage (Prohibition) Bill, was tabled before Parliament. Although this last Bill is more limited in scope than the 2006 Bill, it may be interpreted as criminalising the work of anyone, including a human rights defender, who advocates for equal rights for all individuals or communities, including lesbian, gay, bisexual, and transgender people.

In one recent case, an LGBT organisation<sup>42</sup> sought registration three times but every time the authorities claimed the names chosen were not appropriate. At the first attempt, it was claimed that the name was too similar to the name of another organisation; at the second attempt, the word 'campaign' was considered not appropriate; at the third attempt, the name was considered too vague. While there is no evidence that registration was refused because of the issues the organisation works on, this example is illustrative at the very least of how the registration procedure is at times used by the authorities to obstruct the work of human rights defenders.

<sup>41</sup> See Annual Report 2006 of the Observatory for the Protection of Human Rights Defenders as well as Front Line. Press Release, February 27, 2007

<sup>42</sup> The name has been withheld for security reasons.

## 5. Women Human Rights Defenders

The situation of women human rights defenders reflects the broader situation of women in the country, affected by discrimination and gender inequalities. Gender discrimination is in many cases embodied in legislation, although Section 42 of the 1999 Constitution of the Federal Republic of Nigeria contains an explicit anti-discrimination clause<sup>43</sup>. In particular, the Criminal code has provisions that clearly make room for women and men to be treated in different ways, which are in part or totality a violation of the provisions of the Constitution. For example, Nigerian women cannot confer their citizenship rights to their foreign spouse, while foreign women marrying Nigerian men can receive citizenship. Another example is provided by the sentencing of female suspects charged with assault, which is usually harsher than that of male culprits charged with the same crime: Section 360 of the Criminal Code which defines indecent assault of females as a misdemeanour attracting two years imprisonment whilst Section 353 of the Criminal Code states that indecent assault of males is a felony attracting three years of imprisonment. Section 353 of the Criminal Code further states that the offender cannot be arrested without a warrant. But section 360 is silent on whether the offender can be arrested without a warrant. The Criminal Code is applicable in Southern Nigeria. Furthermore, Section 55(1)(d) of the Criminal Code provides that "nothing is an offence which does not amount to the infliction of grievous hurt upon any person and which is done by a husband for the purpose of correcting his wife such husband and wife being subject to any native law or custom in which such correction is recognised as lawful", and Section 55(2) provides that "no correction is justifiable which is unreasonable in kind or in degree, regard being had to the age and physical and mental condition of the person on whom it is inflicted; and no correction is justifiable in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted".

At times the dual legal system where positive law (federal and State) coexists with religious and customary norms, aggravates gender inequalities due to applicable discriminatory practices under the latter.

Women human rights defenders face serious challenges especially in certain areas of the country including the northern States, where Sharia law is applied, and the South-East and South-West, where traditional practices and customs are stronger. The work of women defenders in those areas focuses primarily on such issues as polygamy, child marriage, inheritance and female genital mutilation. Despite a reported improvement concerning numbers of women in decision making, women human rights defenders continue to be at risk. In particular, women's rights defenders face the greatest challenges when working on traditional practices negatively affecting women. Organisations working on reproductive rights and health issues have been the subjects of slander campaigns and attacks against them. For the most part, threats against women's rights activists come from non-State actors, including religious authorities and the media. Most often, however, the State fails to address these threats appropriately. For instance, one of the founding Executive Directors of BAOBAB for Women's Human Rights and its present Executive Director, Ms. **Sindi Medar-Gould**,

<sup>43</sup> "A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person - (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or (b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, and places of origin, sex, religions or political opinions"; and "No citizen of Nigeria shall be subjected to any disability, or deprivation merely by reason of the circumstances of his birth".

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were threatened by religious leaders during the Bariya Ibrahim Magazu case<sup>44</sup> and Amina Lawal case<sup>45</sup>. A Fatwa was actually placed on the founding Executive Director of BAOBAB. Likewise, the Executive Director of Girls' Power Initiative (GPI) in Calabar was also threatened. GPI is a non-governmental, not-for-profit youth development organisation founded in 1993 to address the challenges facing girls in the Nigerian society and equip them with information, skills and opportunities for action to grow into self actualised young women.

Religious groups and traditional communities often distrust organisations working on women's rights. Name calling, verbal assaults, physical attacks and sexual harassment have been reported to the mission delegation as the main violations against women human rights defenders. For instance, the Executive Director of the organisation BAOBAB for Women's Human Rights was threatened by unknown persons calling her all sorts of names. In particular, she was accused on several occasions from 2000 to 2005 of encouraging fornication and adultery as well as being a fornicator and should be killed.

One woman human rights defender from the organisation BAOBAB for Women's Human Rights was attacked in Ajah police station, Lagos State, while reporting on a rape case. Allegations were made that her organisation was destroying other people's marriages as the victim, who was subjected to domestic violence, wanted to end her marriage, against her family's willingness. The organisation Project Alert confirmed the difficulties of carrying out trial observations in the northern States and the need for women defenders to disguise themselves to avoid being recognised and attacked<sup>46</sup>. One of the interviewees mentioned that when she was carrying out a project for her organisation, she was threatened by a client of her husband to be attacked with acid. The organisation BAOBAB also said it has to be extremely strategic in wording some of its conferences/seminars/workshops titles in order to avoid intrusion by fundamentalists.

The mission delegation was informed of the kidnapping of a male staff member of the organisation BAOBAB, in Lagos, at the end of October 2008, while he was on his way to work. The kidnappers subsequently asked for a ransom, which was paid by his community, with a contribution from BAOBAB. The defender was released after being detained for eight days.

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<sup>44</sup> Ms. Bariya Ibrahim Magazu was convicted of zina (fornication) in September 2000 by the Shariah Court of Zamfara State, in northern Nigeria (enacted in June 2000) for being pregnant without being married. She was sentenced to 100 lashes to be carried out 40 days after the birth of the baby. She was sentenced to another 80 lashes for qadhif (false accusation of zina) when the court decided that there was insufficient evidence to identify the men she names as the possible father of her baby. Ms. Bariya Ibrahim Magazu and her family had asked BAOBAB to assist them in this case. BAOBAB saw the Governor of Zamfara State in November 2000. He refused to consider executive clemency on the grounds that this would be detrimental to Islam. He also dismissed letters and protests from human rights groups (as they are not Muslim or based on Muslim laws, and therefore unqualified to comment).

<sup>45</sup> In March 2002, Ms. Amina Lawal was sentenced to death by stoning for alleged "zina crime" (sexual relations outside marriage) in Katsina State. On August 19, 2002, her first appeal against the stoning sentence was rejected by an Islamic court in Katsina State of Nigeria. Ms. Lawal's pregnancy and subsequent delivery of a baby girl as well as the alleged confession was used as conclusive proof to find her guilty of adultery under the Sharia. On September 25, 2003, the Katsina State Sharia Court of Appeal overturned Ms. Lawal's sentence on the grounds that pregnancy outside of marriage is not proof of adultery, that Ms. Lawal's alleged confession was no confession in law, and that her rights of defence had not been properly recognised in the lower courts.

<sup>46</sup> Project Alert is a non-governmental women's rights organisation set up in 1999 to promote and protect the rights of women and young girls and provide support services to these victims.

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**6. Trade unions and labour activists**<sup>47</sup>

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The right to organise and the right to strike remain limited in Nigeria.

In March 2005, the Trade Union Amendment Act was passed into law by the National Assembly. It retains the Nigeria Labour Congress (NLC) as a central labour union but gives other trade unions the freedom to federate and form umbrella unions, and makes union membership voluntary. Previously, freedom of choice was restricted by the stipulation in the Trade Unions Act that no trade union could be registered to represent employees where a trade union already existed. The right to organise is denied to workers in essential services, including employees of the Customs and Excise Department, the Immigration Department, the Nigerian Security Printing and Minting Company (NSPMC), the Prison Service and the Central Bank of Nigeria<sup>48</sup>.

Moreover, workers taking strike action that is deemed to be illegal are liable to both a fine and an imprisonment sentence of up to six months. In addition, Nigerian labour law prohibits and criminalises strikes that are deemed to relate to conflicts of interest or any strikes relating to economic issues, including strike action to protest against the Government's social or economic policy affecting workers' interests.

In that context, on January 6, 2008, Mr. **Alhaji Saula Saka**, Lagos State Chairman of the National Union of Road Transport Workers (NURTW), was killed by four men. According to his family, the assassination was clearly linked to his trade union activities and leadership. At the end of 2008, the investigation conducted by the State Criminal Investigations Department had still not identified the murderers.

Students were also repressed for claiming the right to unionise in 2008, when a conflict that had started the year before at the University of Obafemi Awolowo continued. In 2007, ten student activists including the Students' Union President, Mr. **Saburi Akinola**, the Speaker of the Students' Parliament, Mr. **Andrew Ogumah**, and the Public Relations Officer, Mr. **Olatunde Dairo**, had been arrested, detained and expelled from the university for their struggle for better welfare conditions and respect for students' right to unionise and association. They were detained for over seven months at Oshogbo Prison in Osun State. They were released on bail in February 2008 due to local and international protest in particular from the Students' Union, labour, civil society activists as well as the international campaigns led by the Committee for a Workers International (CWI), who also called for their reinstatement. In a public statement posted on campus on December 31, 2008, the university authorities announced the recall of three of the targeted student activists. Conditions for their reinstatement included a letter of apology/undertaking and withdrawal of cases instituted against the university from courts.

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<sup>47</sup> See Annual Report 2009 of the Observatory for the Protection of Human Rights Defenders.

<sup>48</sup> See International Trade Union Confederation (ITUC), 2009 Annual Survey of violations of trade unions rights.

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## VI. CONCLUSION AND RECOMMENDATIONS

If we were to analyse the current situation of human rights defenders in Nigeria using the previous military regime as a benchmark, there would be no questioning that enormous progress has been made. As reported above, the majority of the defenders met by the delegation acknowledged that there is no systematic targeting and reported feeling confident that they can pursue their human rights work without fear of retaliation. However, the report also shows that, although not systematic, some defenders are still targeted. This is the case of defenders working on issues deemed as sensitive, such as corruption and good governance or sexual orientation and gender identity. This is also the case of defenders working in certain regions, in particular the Niger Delta, regardless of the issues they raise. Finally, this is the case of defenders working on certain issues in certain regions, such as women's rights activists in predominantly Muslim areas.

Some of the challenges identified in this report are of such nature that it is possible to address them immediately. Access to information is a case in point. Nigeria should amend the relevant Bill so as to make it less restrictive and effectively protective of defenders' right to access information.

Other challenges however can only be fully addressed in the long term. The example here is the situation faced by defenders working on sexual orientation and gender identity. The main problem is the overt hostility they face within society and the communities they operate in. Being this deeply rooted in culture and society, progress in the area may require time. While recognising this, some steps in the short term are nevertheless possible. We think in particular about measures to prevent Government officials from making negative public statements, which contribute to the stigmatisation of LGBT rights, or about measures to protect the privacy of LGBT defenders from irresponsible journalism.

Interventions are urgently needed as regards police accountability, including their disregard for court decisions. It is worrisome that the police may continue to harass protesters on the basis of a law that the judiciary has declared unconstitutional.

More specifically, in view of the information provided in this report, the Observatory for the Protection of Human Rights Defenders and Front Line recommend:

### A. To the Government and relevant authorities of Nigeria:

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- to guarantee in all circumstances the physical and psychological integrity of all human rights defenders in Nigeria.
- to put an end to all acts of harassment, including at the judicial level, against all human rights defenders in Nigeria.
- to guarantee, at all times, the freedoms of opinion and expression as well as the right to hold peaceful demonstrations and to political assembly.
- to comply with the Nigerian Constitution and the international and regional instruments ratified by Nigeria and, notably the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples' Rights.

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- to conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, especially its Article 1, which states that "everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels", Article 11 which reads that "everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession" and Article 12.2, which provides that "the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration".
  - to evaluate its domestic legislation in order to bring them in conformity with international and regional human rights standards in so far as the legislation should allow for the full enjoyment of fundamental rights and freedoms.
  - to facilitate the registration of NGOs.
  - to ensure the independence of the judiciary, impartiality, guardianship including watchdog role against powers of State agencies such as police, to dispense justice without any risk of being held accountable, securing financial autonomy of the National Judicial Council, guarantee democratic appointment of judges and requirement including procedure for dismissal of judges.
  - to immediately repeal the sections of the Public Order Act that were found unconstitutional by the Court of Appeal.
  - to revise the Freedom of Information Bill taking into account the criticism and proposals brought forward by civil society organisations.
  - to pass a new law on the NHRC, thus giving it statutory nature, and include therein measures to strengthen its independence.
  - to appoint as a matter of urgency the governing council of the NHRC.
  - to create measures to protect women and LGBT rights defenders, including through public awareness raising campaign.
  - to identify all public agents who have been implicated in the violations of human rights defenders' rights, bring them before a civil competent and impartial tribunal and apply to them the penal sanctions provided by the law.
  - to bear equal responsibility for human rights violations committed by non-State actors especially when the State fails to apply due diligence to prevent, punish, investigate, or redress the harm caused by such non-State actors who seem to operate with the acquiescence of the State.
  - to tackle impunity for violations against human rights defenders and take urgent measures to ensure supervision over actions by the Joint Task Force (JTF) and police in the Niger Delta.
  - to domesticate international and regional human rights instruments, especially the Convention Against Torture (CAT) and to recognise torture as a specific crime.
  - to make the declaration under Article 34.6 of the African Charter Protocol establishing the African Court on Human and Peoples' Rights granting the possibility to individuals and Ngos to directly access the Court.
  - to set up human rights desks in all police stations and take measures to improve their effectiveness, including in particular human rights training as well as systematic assessment of their impact and results, and ensure their effectiveness.



- to ensure respect for privacy in the media when disclosure of names or publishing of pictures put human rights defenders at risk.
- to issue a standing invitation to the Special Rapporteurs of the ACHPR and of the UN on the situation of human rights defenders so that they visit the country.
- to implement the recommendations made by the Special Representative of the UN Secretary General on Human Rights Defenders following her visit to Nigeria in 2005 (see UN Document E/CN.4/2006/95/Add.2), including:
  - "to further strengthen the NHRC by making express provision for the commission's independence and autonomy; making it compulsory that inquiries or correspondence on human rights matters emanating from the Commission be responded to within 30 days, as in the case for a court summons, and entrenching the Commission in the Constitution".
  - "to review the provisions and implementation of the Public Order Act to ensure that the right to freedom of assembly is fully respected and that undue or unreasonable limits are not placed on collective and public action for the promotion or protection of human rights".
  - "to expedite the process of adopting an adequate legislative framework for freedom of information and to set up adequate mechanisms to collect and publish data and statistics on public policies and institutions in order to ensure transparency and accountability, without which defenders cannot perform their monitoring and reporting functions".
  - "to take immediate measures to address impunity, and in particular to set up a strict system of accountability within the security forces, including disciplinary proceedings, and include human rights training in the basic training curriculum for police officers and staff at all levels of the hierarchy".

**B. To the African Commission on Human and People's Rights (ACHPR) and the African Union:**

- to monitor Nigeria's implementation of the African Charter on Human and People's Rights, in particular to review implementation of ACHPR Concluding Observations adopted after Nigeria State report's examination in November 2008.
- to grant particular attention to the specific situation of human rights defenders in Nigeria and to assess Nigeria's compliance with the recommendations set forth in the present report.

We also call upon the Special Rapporteur on Human Rights Defenders in Africa of the ACHPR:

- to have a careful look at the situation of human rights defenders in Nigeria.
- to request for an invitation to carry out a visit to Nigeria.

**C. To the Economic Community Of West African States (ECOWAS):**

- To draw a particular attention to the implementation of the 1998 UN Declaration on Human Rights Defenders in its member States and to set up an integrated mechanism in that regard within the Commission.

**D. To the UN Special Rapporteur on Human Rights Defenders:**

- to grant particular attention to the protection of human rights defenders in Nigeria and raise individual cases, in accordance with the UN Declaration on Human Rights Defenders.
- to request for an invitation to carry out a follow-up visit to Nigeria.

**E. To the EU Member-States and the European Commission:**

- to grant particular attention to the protection of human rights defenders in Nigeria, in accordance with the EU Guidelines on Human Rights Defenders.
- to raise the concerns set out in this report with the Nigerian authorities on the basis of the EU Guidelines on Human Rights Defenders.
- to raise individual cases of human rights defenders in the framework of the "Article 8 dialogue" provided by the Cotonou Agreement.

**F. To the international community at large and donors:**

- to support through appropriate programmes the reform of the police, the judiciaries and other key law enforcement institutions.

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## Annex 1

### List of organisations and institutions met during the fact-finding mission

#### National and State institutions:

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- Nigerian National Human Rights Commission, Ms. K.F. Ajoni, Executive Secretary and Mr. Saka Azimazi, Principal Legal Officer
- Directorate for Citizens' Rights, Commissioner for Justice, Lagos State, Ms. C.O. Ibirogbu, Director

#### Civil society:

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##### 1) In Abuja

- CLEEN Foundation
- Civil Liberties Organisation (CLO)
- Global Rights
- Movement for the Survival of the Ogoni People (MOSOP)
- Niger Delta Development Initiative (NDDI)
- Nigeria Bar Association
- Nigeria Labour Congress (NLC)
- Partnership for Justice
- Prisoners Rehabilitation and Welfare Action (PRAWA)
- Save Earth Nigeria (SEN)
- The Independent Project (TIP)

##### 2) In Lagos

- Access to Justice
- BAOBAB for Women's Human Rights
- CLO
- DAAR Communications Plc (AIT)
- Gender and Development Action (GADA)
- Media Concern Initiative
- Media Rights Agenda
- Prisoners Rehabilitation and Welfare Action (PRAWA)
- Project Alert
- West Africa Network for Peace Building (WANEP)



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Created in 1986, the World Organisation Against Torture (OMCT) is today the main coalition of international non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment. With 297 affiliated organisations in its SOS-Torture Network, OMCT is the most important network of NGOs working for the protection and the promotion of human rights in the world.

Based in Geneva, OMCT's International Secretariat provides personalised medical, legal and/or social assistance to victims of torture and ensures the daily dissemination of urgent interventions across the world, in order to prevent serious human rights violations, to protect individuals and to fight against impunity. Moreover, some of its activities aim at protecting specific categories of vulnerable people, such as women, children and human rights defenders. OMCT also carries out campaigns relating to violations of economic, social and cultural rights. In the framework of its activities, OMCT also submits individual communications and alternative reports to the United Nations mechanisms, and actively collaborates in the respect, development and strengthening of international norms for the protection of human rights.

OMCT has either a consultative or observer status with the United Nations Economic and Social Council (ECOSOC), the International Labour Organisation, the African Commission on Human and Peoples' Rights, the *Organisation Internationale de la Francophonie*, and the Council of Europe.

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CP 21 - 8 rue du Vieux-Billard - CH-1211 Geneva 8 - Switzerland  
Tel: + 41 22 809 49 39 / Fax: + 41 22 809 49 29 / [www.omct.org](http://www.omct.org)



#### Establishing the facts

Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis. FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

#### Supporting civil society

Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

#### Mobilising the international community

Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

#### Informing and reporting

Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

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17 passage de la Main-d'Or - 75011 Paris - France  
Tel: + 33 1 43 55 25 18 / Fax: + 33 1 43 55 18 80 / [www.fidh.org](http://www.fidh.org)



## The Observatory for the Protection of Human Rights Defenders: a joint programme of OMCT and FIDH

Created in 1997, the Observatory is an action programme based on the belief that strengthened co-operation and solidarity with and among human rights defenders and their organisations will contribute to break their isolation. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims. The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With this aim, the Observatory operates the following actions:

- a mechanism of systematic alert of the international community on cases of harassment and repression of human rights defenders, particularly when they require urgent intervention;
- the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- international missions of investigation and solidarity;
- a concrete material assistance aiming at ensuring the security of defenders victims of serious violations of their rights;
- the publication and world-wide dissemination of reports on violations of the rights and freedoms of human rights defenders or organisations around the world, including its Annual Report;
- sustained action with the United Nations in particular with the Special Rapporteur on Human Rights Defenders, as well as sustained lobbying with various regional and international inter-governmental institutions.

**To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger.**

### Emergency Line:

Email: [Appeals@fidh-omct.org](mailto:Appeals@fidh-omct.org)

Tel: + 41 22 809 49 39 Fax: + 41 22 809 49 29 (OMCT)

Tel: + 33 1 43 55 55 05 Fax: + 33 1 43 55 18 80 (FIDH)



## The International Foundation for the Protection of Human Rights Defenders (Front Line)

Front Line was founded in Dublin in 2001 with the specific aim of protecting human rights defenders at risk, people who work, non-violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights (UDHR). Front Line aims to address the protection needs identified by defenders themselves.

Front Line seeks to provide rapid and practical support to at-risk human rights defenders, including through:

- international advocacy on behalf of human rights defenders at immediate risk;
- grants to pay for the practical security needs of human rights defenders;
- training and resource materials on security and protection, including digital security;
- rest and respite, including the Front Line Fellowship;
- opportunities for networking and exchange between human rights defenders, including at the biennial Dublin Platform;
- the annual Front Line Award for Human Rights Defenders at Risk;
- an emergency 24 hour phone line for human rights defenders operating in Arabic, English, French, Spanish and Russian
- In emergency situations Front Line can facilitate temporary relocation of human rights defenders.

Front Line promotes strengthened international and regional measures to protect human rights defenders including through support for the work of the UN Special Representative on Human Rights Defenders. Front Line seeks to promote respect for the UN Declaration on Human Rights Defenders.

Email: [info@frontlinedefenders.org](mailto:info@frontlinedefenders.org)

Tel: +353 (0)1 212 3750 Fax: +353 (0)1 212 1001