**Questionnaire for Member and Observer States, by the**

**UN Special Rapporteur on the situation of human rights defenders**

**Mary Lawlor, September 2021**

The UN Special Rapporteur on the situation of human rights defenders, Ms. Mary Lawlor invites Member and Observer States to respond to the questionnaire below. Submissions received will inform the thematic report of the Special Rapporteur on the issue of human rights defenders working on corruption, which will be presented to the UN Human Rights Council in March 2022.

The questionnaire and related concept cote on the report are available at OHCHR website in English (original language) as well as in French and Spanish, (and Russian and Arabic unofficial translations): <https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>

All submissions received will be published in the aforementioned website, unless the submitter clearly indicated that they did not wish to have their input be made publicly available when submitting their response.

There is a word limit of 2500 words per questionnaire. Please submit the completed questionnaire to OHCHR-defenders@un.org

Deadline for submissions: **15 October 2021**

**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

Corruption is a fundamental human rights issue, and human rights defenders who work on it are often attacked for exposing or researching abuse of power, graft, bribery, fraud and other related malpractices.

**Questions FOR NGOs/HRDs**

Human rights defenders are persons, who individually or in association with others, work peacefully to promote and protect universally recognized human rights and fundamental freedoms in accordance with the UN Declaration on Human Rights Defenders.

1. **Does your Government accept that corruption is a human rights issue?**

No! There are no evidence of such acceptance by Nigerian Government.

1. **How does your Government support and protect human rights defenders working against corruption?**

There is absolute no form of support for human rights defenders working against corruption. The civil society prepared and collaborated with parliamentarians to enact a whistleblower protection law but was not signed by the government. Rather, the government enacted a Cybercrimes Act in 2015, exposing whistleblowers and investigative journalists working on corruption issues to attacks by politicians and state institutions.

1. **Has your Government ratified the UN Convention against Corruption?**

Yes

1. **If yes, what, specifically, has your Government done to implement its Article 13 including “…to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption…”?**

The government adopted a National Anti-Corruption Strategy with the support and participation of civil society organisations and international development partners and set up a Monitoring and Evaluation Committee with NGOs as members. The government also signed up to the Open Government Partnership agreement with civil society representative as co-Chair of the partnership.

1. **If your government has not ratified the Convention yet, are you carrying out any advocacy work in support of its ratification?**
2. **Have there been any cases of human rights defenders working on anti-corruption issues physically attacked, including killed, in your country between 1 January 2020 and 30 June 2021? What action has been taken to bring the perpetrators to justice?**

No killings but several arrested, illegally detained by state authorities, arraigned under draconian laws and forced to exile.

1. **Have cases of attacks, intimidation and harassment of anti-corruption activists been investigated and prosecuted? Please provide details of cases is available.**

HEDA would bring two notable cases of intimidation and harassment of anti-corruption activists to your attention.

1. *Intimidation, harassment and prosecution of Olanrewaju Suraju, Chair of HEDA.*

Olanrewaju Suraju, is the chair of Human and Environmental Development Agenda (HEDA Resources Centre). He is widely recognized as one of the most prominent anti-corruption campaigners in Nigeria. As a result of petitions submitted by HEDA, numerous anti-corruption investigations have been undertaken by Nigeria’s Economic and Financial Crimes Commission and authorities outside of Nigeria, many of which have resulted in prosecutions of public officials and companies for bribery, money laundering and other financial crimes.

Since April 2021, Mr Suraju and HEDA have been subjected to repeated intimidation and harassment by a (supposedly) disbanded unit of the police operating out of the office of the Inspector General of Police. The harassment has included arbitrary detention, visits to HEDA’s offices, accusations that HEDA is an unregistered NGO (despite it being registered) and, most recently, entirely false charges laid against Mr Suraju being publicized in the press even though they have yet to be served on him.

The harassment and intimidation have been orchestrated by the former attorney general of Nigeria, Mohammed Bello Adoke, apparently in conjunction with the current Attorney General and the Inspector General of Police. Mr Adoke is currently being prosecuted in Nigeria in relation to alleged corruption in the acquisition by Shell and Eni of the license to the giant OPL 245 offshore oil field in 2011. Mr Adoke, who denies the charges, was intimately involved in the deal.

The prosecution was initiated following a complaint by HEDA to Nigeria’s anti-corruption agency, the Economic and Financial Crimes Commission (EFCC). Two subsidiaries of Shell and Eni are also on trial for corruption, as is Abubakar Aliyu, a business entrepreneur and associate of Adoke. Shell and Eni have also been prosecuted in Milan, Italy, for international corruption relating to the OPL 245 deal. Although they were acquitted by the Court of First Instance, the judgment has been appealed. The Federal Government of Nigeria is a civil party to the case and is seeking damages from the companies and other defendants. Separately, the FRN has initiated a claim in the London High Court to recover $800,000 from JP Morgan Chase, the bank that handled the proceeds from the sale of OPL 245. The FRN has stated that the deal was “corrupt” and “a conspiracy to injure Nigeria”.

HEDA and its international partners have been at the forefront of investigating the alleged corruption associated with the OPL 245 deal. As part of that work, they notified the Milan Prosecutor of the existence of an email signed by a Mohamed Bello Adoke and sent to JP Morgan from an email address owned by Abubakar. The email was apparently intended to facilitate the transfer of funds arising from the OPl 245 deal. It was first disclosed by JP Morgan bank as part of the London court case.

As a result, the Milan Prosecutor sought a copy of the email through a Mutual Legal Assistance request to the UK. The email was duly supplied by the UK’s Serious Fraud Office and was accepted as evidence by the Milan Court. Subsequently it was cited by the FRN in its summing up of its civil case against the Milan defendants as evidence of the close relationship between Adoke and Abubakar.

The email received considerable publicity in Nigeria, prompting Adoke to petition the police for an investigation, alleging that it had been forged by the groups whose complaints had led to the prosecutions in Milan. Although it was not named, HEDA and Mr Suraju was a clear target.

Subsequently, the Monitoring Unit of the Inspector General of Police summoned Mr Suraju for questioning, detaining him overnight. Although Mr Suraju was able to refute the allegation of forgery, which was palpably absurd given the email had been obtained through official channels by the UK authorities, the police then turned to an investigation of HEDA itself, even though no allegations had been made against the organisation. Mr Suraju was required to travel from Lagos to Abuja on five more occasions, at considerable expense. HEDA’s offices were also visited by the police.

A court order was obtained by HEDA restraining the police and Adoke "from further threats of arrest and detention of [HEDA] or infringing on their right to liberty". The order was in response to a Fundamental Rights application by HEDA. Nonetheless, the harassment continued.

As a result of a petition by HEDA, the Economic and Financial Crimes Commission and the Cybercrimes unit of the police, together with Interpol, began an investigation into who had sent the email. This led to the IGP’s monitoring unit, which by now had been officially disbanded, writing a report (at the request of Adoke) accusing Mr Suraju of circulating the email in a "calculated attempt" to "falsify relationship between [Mr Adoke] and Aliyu Abubakar while their cases are still ongoing in court, thereby misleading the public".

The report was then forwarded to the current Attorney General and Minister of Justice for his consideration. Subsequently, the EFCC detained Abubakar for questioning, in all likelihood over the email. This triggered a spate of press articles reporting that Mr Suraju was to be charged with cyberstalking, the accusation being that he circulated the email “for the purpose of causing insult to Mr Mohammed Bello Adoke SAN”.

The charges were bought under a cybercrime law that the ECOWAS Court has declared as incompatible with international human rights undertakings and which the government itself has promised to amend.

The cyberstalking charges have grave implications not just for Mr Suraju but for the freedom of Nigerians to report on proceedings in open court. Mr Suraju has done no more than bring to public attention evidence that formed part of a prosecution. This is a right that is fundamental to open justice. If declared a cybercrime, it would be hugely damaging to the conduct of justice in Nigeria.

1. *Denial of rights to fair hearing for Ibrahim Magu, former Chair of Economic and Financial Crimes Commission*

Ibrahim Magu is the former chair of the Economic and Financial Crimes Commission, one of the main government anti-corruption agencies. During his tenure, he gained a reputation for following the evidence where it led, without fear or favour. Numerous successful prosecutions were mounted against corrupt individuals, resulting in the return of billions of naira in looted assets.

Although not a civil society activist, he is certainly an anti-corruption activist in the wider sense of the term. Moreover, his summary fenestration, without due process and in denial of his civil rights, is witness to the power of corruption to fight back.

In 2020, at a time when the EFCC is understood to have been probing corruption allegations against the Attorney- General, Mr Magu was detained and suspended following allegations of corruption and insubordination. These allegations were made by the Attorney-General. Moreover, the corruption allegations had already been investigated and dismissed three years previously. No additional evidence was submitted. The insubordination allegation was also highly problematic since it directly threatened the independence of the EFCC as an independent prosecutorial office.

A Panel of Inquiry was set up by the President, who, quite properly, was obliged to see that all allegations against serving police officers are investigated. Subsequently, Mr Magu was detained but was not served with a copy of the allegations against him for several weeks. He was also denied an opportunity to speak to the panel on a number of occasions. Further he was denied the opportunity to cross examine witnesses and his accusers. The Panel also never revealed its mandate, its terms of reference or the timeline to which it was expected to operate. Mr Magu was therefore subjected to an open-ended intimidatory process.

Although the panel eventually reported to the President, the report was not made available to Mr Magu or to the public. Mr Magu has not been charged with any offence, despite the panel concluding its work, nor has he been reinstated.

The treatment of Mr Magu infringed his rights to a fair hearing and to freedom from arbitrary detention.

1. **Could you please share good practices (evidence-based) that have proved effective in protecting human right defenders working on anti-corruption issues?**

None

1. **How has your Government publicized and celebrated the work of human rights defenders working against corruption in your country?**

There is no record of such publication or celebration by the government

1. **What more could your Government do to help protect human rights defenders working on issues of anti-corruption?**
* Enactment of the whistleblower and witness protection law for the country
* Repeal of the Cybercrimes Act, 2015 or amendment it to confirm with international best practice
* Guaranty the independence and professionalism of the law enforcement to protect the human rights defenders
* Provide necessary monitoring mechanisms for monitoring, documenting and compensating the human rights defenders harassed or attacked.