

NATIONAL HUMAN RIGHTS COMMISSION, NIGERIA

Response of the National Human Rights Commission to the Call by the United Nations High Commissioner for Human Rights for Inputs for the Preparation of the 2023 Report of the UNHCHR Pursuant to Human Rights and Fundamental Freedoms of Africans and People of African Descent Against Excessive Use of Force and Other Human Rights Violations by Law Enforcement Officers Through Transformative Change for Racial Justice and Equality

Introduction

The promotion and protection of human rights and fundamental freedoms of Africans and people of African descent in Nigeria, in Africa and around the world has always been of concern for the National Human Rights Commission (NHRC). The Commission deeply condemns the continued racial discrimination, inequality and marginalisation of Africans and people of African descent around the world.

The Commission asserts Nigeria's role in the fight against racism in Africa and around the world in the past. The country, right from independence in 1960, continues to champion the cause of black people everywhere, including Africa, not forgetting her preeminent role in ending colonial rule in Angola, Mozambique, Zimbabwe and Namibia, and ultimately in ending the apartheid government in South Africa. It is instructive that Nigeria's Foreign Policy is grounded on one of the core values that promotes respect among nations and the elimination of discrimination in all its manifestation. In the same vein, Nigeria played an important role in the formation of the African Union, which champions the rights of Africans and upholds the principles of non-discrimination and equal treatment.

Transformative change for racial justice and equality requires tackling issues of systemic racism, discrimination, and bias, which often leads to excessive use of force by law enforcement officers. Nigeria has taken steps towards addressing these issues in recent times.

Legal Framework

It is self-evident that Nigeria is active as a national human rights institution and has committed to both the regional and international protection of human rights. This is demonstrated by the fact that she is a party to core human rights treaties that guard against discrimination. These instruments include the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all Forms of

Discriminations Against Women (CEDAW), the International Convention on the Elimination of all Forms of Racial Discrimination, the International Covenant of Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples Rights (ACHPR).

Sections 15 and 42 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) prohibit discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties. Also, section 17 thereof provides that the State's social order is founded on the principles of freedom, equality and justice and shall direct its policy towards ensuring that Federal laws and policies are enacted to promote and protect against discrimination. Accordingly, every citizen has equality of rights, obligations and opportunities before the law. Thus the Constitution upholds, recognises and maintains the sanctity and dignity of the human person. Other laws that guard against discrimination include the Child Rights Act, of 2003, the Violence Against Persons (Prohibition) Act, of 2015, the Discrimination Against Persons with Disabilities (Prohibition) Act, of 2018, the National Senior Citizens Act, of 2017, HIV/AIDS (Anti-Discrimination) Act 2014, Administration of Criminal Justice Act, 2015, National Anti-Trafficking In Persons Prohibition Act, 2015, Universal Basic Education Law 2004, National Health Act 2014 and the Cybercrimes (Prohibition, Prevention, ETC) Act, 2015.

There are also policies such as the National Health Policy 2016, National Employment Policy 2017, Nigeria's National Social Protection Framework, the National Gender Policy 2006 (reviewed in 2014), the Second National Action Plan on the implementation of UN Security Council Resolution 1325 and related resolutions on Women, Peace and Security (2017).

The Commission in conjunction with relevant government and non-governmental stakeholders developed a National Action Plan on the Promotion and Protection of Human Rights in Nigeria (2022-2026). The plan covers the core human rights instruments that protect the right to freedom from discrimination. The Plan is before the Federal Executive Council for adoption.

Nigeria also has institutions that promote and protect the right to freedom from discrimination. These include amongst others the National Human Rights Commission (NHRC), the Public Complaints Commission (PCC), the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) and the National Senior Citizens Centre (NSCC).

Nigeria's Actions Towards Transformative Change for Racial Justice and Equality

Transformative change for racial justice and equality requires tackling issues of systemic racism, discrimination, and bias, which often leads to excessive use of force by Law Enforcement Officers (LEOs). Nigeria has taken steps towards addressing these issues in recent times, nationally, and regionally.

The NHRC, established in 1995 by the National Human Rights Commission Act of 1995, is responsible for the promotion and protection of human rights in Nigeria. It has undertaken several initiatives aimed at addressing human rights violations by LEOs including extensive training on balancing security and law enforcement imperatives with the respect for human rights.

The NHRC, on the directives of the Federal Government of Nigeria, established an Independent Investigative Panel which investigated complaints against the defunct Special Anti-Robbery Squad (SARS) and other units of the Nigeria Police Force following protests by the Youths of Nigeria in 2020. The membership comprised a retired Justice of the Supreme Court of Nigeria and representatives of Civil Society Organisations in order to enhance a broad-based accountability process.

The Panel, with the support of the Federal Government of Nigeria and the National Assembly, was able to ensure the award of about 500 million Naira in compensation and also made recommendations for the prosecution of culpable LEOs for the human rights violations perpetrated in the country at the time. The compensation serves as civil remedies that were ordered by the ongoing Independent Investigation Panel on Human Rights Violations by the defunct Special Anti-Robbery Squad of the Nigeria Police Force. The NHRC continues to work in collaboration with the Nigerian government to continue to acknowledge and address human rights violations to promote a culture of accountability and transparency.

Regionally, Nigeria is a member of the African Union, which has made significant strides towards promoting human rights and addressing issues of racial justice and equality. The African Commission on Human and Peoples' Rights, a regional human rights body, monitors and promotes human rights in Africa. Nigeria has actively participated in the activities of the African Commission, including submitting periodic reports on the human rights situation in the country.

Right to Participate in Elections, Access Public Service and Seek Redress

In Nigeria, the right to participate in public affairs by the citizenry allows them to participate in decision-making and hold the government accountable for violations of their rights. This undoubtedly strengthens democratic institutions, instils legitimacy in public policies/decisions and further enhances the actualization of the individual rights of the citizens.

The right to participate in public affairs is entrenched in the 1999 Constitution of the Federal Republic of Nigeria as amended and the fact that the will of the people is the basis of the authority of government expressed in periodic and genuine elections. Accordingly, section 14 thereof provides that the Federal Republic of Nigeria shall be a State “based on the principles of democracy and social justice”. It further declares that “sovereignty belongs to the people from whom government through this Constitution derives all its powers and authority” and that the participation of the people in their government shall be ensured in accordance with the provisions of the Constitution.

To ensure a safe and enabling environment conducive to the exercise of the right to participate in public affairs, the 1999 Constitution as well as the Electoral Act of 2022 create institutions that ensure the citizens’ participation in public affairs. These institutions include the Independent National Electoral Commission, Law Enforcement Agencies and the Judiciary.

Furthermore, section 39 of the 1999 Constitution guarantees that “Every person shall be entitled to freedom of expression, including the freedom to hold opinions and to receive and impart ideas and information without interference.” In this regard, the Freedom of Information Act 2011 (FoIA) guarantees the right of persons in Nigeria to access public records and information more freely to the extent consistent with the public interest. The FoIA 2011 provides for an independent and impartial oversight mechanism for the implementation of the Act. In this regard, section 7(1) of the Act gives an applicant the right to approach the courts to challenge any government or public institution that refuses to give access to a record or information applied for under the Act.

Mechanism for Redress

The Courts are created by law with the powers to uphold and enforce human rights. Thus, Section 46 of the Constitution of the Federal Republic of Nigeria 1999 provides for the redress of human rights violations in courts and for the provision of legal aid to

indigent citizens, whose rights have been violated. Subsection (1) thereof provides that any person who alleges that any of the provisions of this Chapter has been, is being or is likely to be contravened in any State may apply to a High Court in that State for redress.

It is instructive to mention that the courts in Nigeria are accessible to all persons irrespective of their gender, ethnic background or race. These courts are located in every State in Nigeria thereby making them easily accessible to the citizenry.

Moreover, the Legal Aid Council Act 2011 establishes the Legal Aid Council of Nigeria which is responsible for the provision of legal aid, advice and access to justice in respect of persons entitled thereto.

Conclusion

Nigeria has taken important steps towards promoting transformative change for racial justice and equality, despite numerous challenges. The government has put in place police reforms, established a Judicial Panel of Inquiry to investigate human rights violations by law enforcement officers, and engaged with Civil Society Organizations (CSOs) to promote the respect of human rights. However, more needs to be done to fully realize the right to take part in public affairs and address systemic issues of discrimination and racism. Nigeria continues to engage with regional and international human rights bodies to promote human rights and address challenges in order to foster accountability and transparency. Nigeria does not operate any state policy that promotes, encourages or tolerates any type of discrimination.

The Commission reiterates its commitment to promoting and protecting the rights of all Nigerians, Africans and people of African descent and calls on all citizens to reject racism in all its forms and manifestations.