

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 41<sup>ST</sup> SESSION NIGERIA, 6<sup>TH</sup> REPORT 3 JULY 2008

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### Key facts<sup>1</sup>

Date of Ratification	Reservations	Party to Optional Protocol (OP)	Opted out of OP's Inquiry Procedure	Additional ratified core treaties
1985	None	Yes	No	ICERD, ICCPR, ICESCR, CAT, CRC

Type of report	Date submitted	Report submitted on time	NGO / NHRI consultation/input	List of issues provided / Written replies received	Last appearance before Committee
6 <sup>th</sup>	5 October 2006	No <sup>2</sup>	Yes	27 September 2007/ 28 May 2008	January 2004

<sup>1</sup> The information in these two tables is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at <http://www.ohchr.org/EN/countries/AfricaRegion/Pages/NGIndex.aspx>

<sup>2</sup> The report was only three months late. It was due on 13 July 2006 and submitted on 5 October 2006.

## Information submitted to the Committee

### State party report<sup>3</sup>

Nigeria's sixth report was divided into three parts. The first section described the geo-political background of Nigeria, explained the report's evolution and process, and provided a summary matrix of the efforts undertaken since the last report to the principal areas of concern identified by the Committee. Part two elaborated on the implementation of each article of the Convention. It detailed relevant statutes, government policy and programs to illustrate compliance with the Covenant, including state laws on the prohibition of violence against widows and widowers, and on harmful traditional practices, and a program to harmonize civil, religious and customary laws to favor equality. The report described measures to ensure advancement of women by the establishment of the Federal Ministry of Women Affairs and the allocation of resources on gender mainstreaming across all sectors, including to the National Economic Empowerment and Development Strategy (NEEDS).

On occasion, the State party was self-critical. For example, the section dealing with article 1 (legal framework) acknowledged the slow progress and difficulties in the domestication of the CEDAW and its full implementation given the tripartite and complex legal system. However, despite this acknowledgment, Nigeria did not provide a timeframe within which the Convention can be domesticated and its provisions widely implemented in all levels of government and society.

### List of issues<sup>4</sup>

The list of issues focused on those areas where Nigeria appeared to face particular challenges, including in giving domestic effect to the Covenant; education and addressing gender stereotypes and harmful practices; violence against women, trafficking and prostitution; participation in political and public life; employment and poverty; health; and marriage and family relations. The Committee requested the State party to explain and identify monitoring and assessment mechanisms to track the progress of its various programs in relation to the advancement of women, and requested information and data on progress made in regard to violence against women; trafficking; labor force participation in the private and public sectors; reduction of harmful and negative social patterns such as female genital mutilation, promotion of education for girls; trafficking of women and children; poverty eradication; and health sector reform.

Nigeria provided its written responses to the list of issues in time for the interactive dialogue.<sup>5</sup> The responses failed to provide adequate responses to questions on monitoring and impact assessment mechanisms. The report also failed to give specific timeframes for the enactment of necessary legislations.

### NGO parallel reports<sup>6</sup>

Four parallel reports were submitted to the Committee, two of which were joint submissions by women's non-governmental organizations. A report submitted by a children's rights organisation sought the abolition of legal corporal punishment in Nigeria. Another NGO focused on conflict-induced internal displacement.

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<sup>3</sup> The State party report (CEDAW/C/NGA/6) is available at <http://daccessdds.un.org/doc/UNDOC/GEN/N06/687/84/PDF/N0668784.pdf?OpenElement>

<sup>4</sup> The list of issues (CEDAW/C/NGA/Q/6) is available at <http://daccessdds.un.org/doc/UNDOC/GEN/N07/520/14/PDF/N0752014.pdf?OpenElement>

<sup>5</sup> Nigeria's response to the List of Issues is available at: <http://daccessdds.un.org/doc/UNDOC/GEN/N08/356/58/PDF/N0835658.pdf?OpenElement>

<sup>6</sup> The parallel reports are available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws41.htm>. For more information on the NGO Nigerian delegation sponsored by International Federation for Human Rights (FIDH) see <http://www.fidh.org/spip.php?article5685>

The Committee's questions to the delegation in the list of issues and the interactive dialogue reflected many concerns raised by the women's non-governmental organizations (NGOs) in their parallel reports, indicating their important contribution to the Committee's work.<sup>7</sup> The reports by women's non-governmental organizations drew attention to areas of concern to women's rights protected under the Covenant, as follows:

1. The high maternal mortality rate in Nigeria and the lack of access to quality healthcare;
2. The prevalence of violence against women and the lack of legislation to protect women from domestic violence, rape and harmful cultural practices such as female genital mutilation;
3. The discriminatory legislation and practices in the labor sector;
4. The failure of the State party domesticate the Convention in national law;
5. The lack of access to political participation by women.

On the opening day of the 41<sup>st</sup> session, NGOs were invited to publicly address the Committee. The Center for Reproductive Rights reported on the lack of access to healthcare which is the main factor contributing to the high maternal mortality rate in Nigeria. Equality Now also spoke on the discriminatory laws still found in Nigeria's labor and criminal legislations. Two representatives from the Nigeria NGO Coalition also presented highlights from shadow reports.

On July 1, 2008, the Center for Reproductive Rights invited Committee members to attend the launch of their report, entitled "Broken Promises" which discusses the status of reproductive rights and access to healthcare in Nigeria.

## Themes and issues

### **Nigeria's delegation<sup>8</sup>**

The high level delegation consisted of numerous members from all sectors, including members of the parliament, academia, the private sector and civil society. The delegation was headed by The Hon. Ms. Hajjya Saudatu Usman Bungudu, Minister of Women's Affairs and Social Development. The deputy leader of the delegation was the Nigerian Ambassador to the UN.

### **The delegation's interaction with the Committee**

In her opening remarks to the Committee, the Head of delegation expressed Nigeria's commitment to Nigeria's National Economic Empowerment and Development Strategy (NEEDS), which seeks to increase the quality of life of all Nigerians, especially women and children. Ms. Bungudu described concrete measures taken to combat violence against women, including creating human rights desks in all police stations; offering police officer training; promulgating judicial pronouncement removing arbitrariness in women's issues; and providing legal aid, counseling and clinics to women victims. While acknowledging the slow rate of progress, Ms. Bungudu affirmed Nigeria's full commitment to the Convention, which it deems a critical barometer for State party self-assessment of progress in the elimination of discrimination against women.

Ms. Bungudu encouraged all the members of the large and diverse delegation to interact with the Committee, providing them an opportunity to speak if the questions relate to their areas of expertise. The Committee members congratulated the large and high level delegation, which was perceived as a sign of Nigeria's commitment. However, in response to Committee questions, the State party answered broadly and failed to

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<sup>7</sup> For example, Committee members raised specific allegations contained in the reports from the Nigeria NGO Coalition on the state of maternal mortality and the healthcare system. The Committee also referred to NGO reports on the situation of internally displaced people, especially women and girls.

<sup>8</sup> The list of members of Nigeria's delegation is available at <http://www2.ohchr.org/english/bodies/cedaw/docs/list/DelegationNigeria41.pdf>

provide specific timelines, monitoring and assessment mechanisms and to identify results. Nonetheless, the delegation assured members that their suggestions and recommendations would be taken into consideration by the Nigerian government.

### **Legal framework (Articles 1-2)**

The Committee expressed concern with the slow progress of domestication of the Convention in Nigeria. Committee member Flinterman (Netherlands) reminded the delegation that failure to domesticate was one of the issues raised by the Committee in 2004. Considering that domestication is an obligation of the Federal State of Nigeria, Mr. Flinterman expressed concern that the relevant bill is only supported by the women's sector and not by the whole government and legislators.

The delegation explained the difficulties in the domestication process in Nigeria. The Constitution requires a 2/3 vote of Parliament for a treaty to be incorporated as part of the legal order, and entails bringing together various stakeholders. However, the delegation assured the Committee that the strategic alliances with NGOs and the backing of the federal government will ensure passage of the draft bill to domesticate the Convention in full before next year. The delegation described efforts at partial domestication of the provisions of the Convention to provide interim protection of women's rights. Moreover, after identifying discriminatory provisions, the Law Reform Commission is working on the harmonization of all national, state and local laws with Shari'a and customary laws to conform with the principle of equality.

### **Institutional framework (Article 3)**

Referencing the State party report, Ms Chutikul (Thailand) pointed out the Committee's difficulty in identifying the roles of different states in the complex tripartite legal system in Nigeria. Ms. Chutikul suggested that the next report provide a matrix for each state, a system which could help the government monitor the performance and compliance of each state. The Committee expressed concern with the apparent difficulties in policy and program coordination considering a lack of a comprehensive and centralized national policy for the implementation of the Convention. Ms. Neubauer (Slovenia) inquired on the status of the establishment of an Equal Opportunity Commission as discussed in the National Political Reform Conference of 2005.

The delegation informed the Committee that the Equal Opportunity Commission has not been established but its establishment may be visited in due course. A National Gender Policy may be developed similar to the already established National Child Policy. The delegation acknowledged that the resources and capacity of gender machineries at all levels remain inadequate but have progressively increased over the years in budgetary allocation. Moreover the Economic Empowerment and Development Strategies (at all levels of government (national, state and local)) provides an opportunity to address women's issues and will form the future basis for gender budgeting.

### **Gender stereotypes (Article 11)**

Many members of the Committee expressed deep concern about the strong sexual stereotypes still prevalent in Nigerian society that contribute to harmful practices committed against women and girls. The report, while acknowledging that women are still viewed as inferior in Nigeria, did not seem to pay sufficient attention to this issue. There is no comprehensive approach to address sexist stereotypes that would involve all actors in community. The Committee reminded the delegation that in the concluding comments on Nigeria's previous report, the Committee stressed the need for a National Comprehensive Plan in addressing stereotypes and harmful practices. Committee members inquired on the measures being undertaken to address female genital mutilation, widowhood practices, child marriages, legal wife beating, virginity tests or dismissals for pregnancy. The Committee expressed that it was not enough to have human rights desks in police stations. A comprehensive plan is necessary to bring about a cultural change on all issues relating to the Convention.

The delegation reported on various laws, as well as those under consideration, to address harmful practices against women and girls. Government officials receive training on human rights and gender equality. The National Judicial Institute trains judges at all levels. The Ministry of Justice and Women's Affairs have also organized workshops for the training of other government officials.

### **Violence against women (Article 5)**

Committee member Ms Hayashi (Japan) inquired about NGO reports on the prevalence of violence committed against women in Nigeria. She expressed concern on numerous reported cases of female genital mutilation; domestic violence; and court decisions that sentence women to death by stoning because of extramarital relations. Committee member Ms Begum (Bangladesh) joined Ms. Hayashi in inquiring about the undue delay in the passage of a bill on violence against women. The Committee requested the delegation to provide information on laws, measures and programs to address violence against women, especially domestic violence, wife-battering, harmful cultural practices and custodial rape and abuse committed by the police. The Committee Chair reminded the delegation of the State party's obligation to repeal laws inconsistent with the Convention.

The delegation acknowledged the difficulties in adopting the necessary legislations. While there is no national law on female genital mutilation, many states have passed laws outlawing the practice. The delegation explained that rape is punishable by law but acknowledged that there is no specific punishment for domestic violence. NGOs are making an effort to have comprehensive legislation covering violence against women passed in parliament. Although previous anti-violence bills have failed to pass, the delegation expressed optimism that the current re-packaged bill will be adopted by Parliament considering the support of the government and civil society. However, no specific timeline was given. The Child Rights Act, which prohibits child marriages, had been passed and adopted by 18 states. Parliament also approved a bill addressing harmful practices and violence against women.

### **Health, including sexual and reproductive health (Article 12)**

Mmes. Arocha Domiguez (Cuba), Gaspard (France), Pimentel (Brazil), Shin (Republic of Korea), and Coker-Appiah (Ghana) expressed deep concern on the alarmingly high rate of maternal mortality in Nigeria, which is the second highest in the world. Considering the Decree by the President in 2005, which referred to the incidence of maternal mortality as a national emergency, the Committee inquired why the government had not achieved significant progress on this front. The Committee inquired about the different measures taken to address the issue, including improving budget allocation for healthcare, access to contraception, access to health services and drugs, improving facilities and training of medical personnel. The Committee also commented on NGO reports on the barriers to women's health services which include the practice of compulsory blood donation by the pregnant woman's spouse and issues of pay for use of healthcare facilities.

The Committee inquired about the prevalence of unsafe abortions and traditional practices that contribute to the high rates of maternal mortality.

The delegation acknowledged the alarming figures of maternal mortality in Nigeria and expressed that the issue is of utmost concern. The delegation explained that since the 2005 declaration of a state of emergency by the President relating to maternal mortality, efforts and resources allocated to address the issue has been scaled up. The government had implemented several initiatives, including training midwives and traditional bath attendants and creating information and advocacy campaigns. More than 10 billion in debt relief gains have been earmarked for healthcare with a special focus on children and women's health. Pregnancy kits will be widely distributed. The National Health Insurance Scheme that began in 2005 for the public sector will eventually be expanded to cover everyone. The government has committed to fund the construction of primary healthcare centers and the recruitment of midwives for three years, and thereafter they will be under the responsibility of local governments. A technical working group for the elimination of female genital mutilation was established, which recognizes the link of deleterious practice to high maternal mortality. The Head of delegation also explained that the new health service delivery system provides a weekly health stock for ante and post natal treatment in healthcare centers. Pregnant women are also given advice on proper hygiene, diet, and their environment. The two Senators who were members of the delegation reported on relevant bills passed and the importance given to healthcare in the national budget. The new Health Reform Bill established a blood bank, ambulance services, ensures the renovation and stocking of primary health care facilities, provides free contraceptives and anti-retroviral drugs, and requires free medical treatment for children and the elderly. The Senator added that health personnel are given incentives to move to more rural areas to help ensure better access to quality healthcare in remote areas. Sexual education is required in all secondary schools. A new policy on maternity leave has been established.

The Committee Chair noted these efforts, but stated that the Committee expects to see reports on the State party's future progress on the matter.

### **Equality before the law, marriage and family relations (Articles 15-16)**

The Committee remained concerned over the continued existence of laws that discriminate against women in Nigeria and the inordinate delays in amending domestic legislation to comply with the Convention. While the State party reports described the law reform process being undertaken in Nigeria, Ms. Halperin-Kaddari (Israel) expressed dissatisfaction with the lack of description of concrete actions, and the difficulty in determining if the laws have been changed and their exact contents. Mme. Kaddari inquired about the specific rights of women in the three legal systems, particularly with respect to divorce, custody, support, marital property, and representation in courts. Ms. Tan (Singapore) further inquired about women's access to legal aid, inheritance rights and the status of widows. Ms. Tan requested clarification on whether family law reform and the process of harmonizing the different systems of law by 2009 will ensure compliance with article 16 of the Convention.

The delegation admitted that Shari'a and customary legal regimes may lead to problems of equality in the areas of women's custody and divorce. However, there has been progress through specific cases where women's rights have been upheld, such as the right to representation in all courts, including Shari'a and customary courts. The delegation reported that the Nigerian Law Reform Commission has concluded and produced documentation on first phase of the reform process, which will be considered by the government. The delegation offered to send these documents together with the World Bank sponsored report identifying all discriminatory laws, which was used as a benchmark for the work of the Nigerian Law Reform Commission. The representative from the Legal Aid Council acknowledged that legal aid services for divorce is not within the mandate of the Council. However, there are intentions to amend the mandate of the Council to expand the cases that it may take up. In the meantime, the Council is willing to hire and pay for private lawyers to

represent women who lack the means to initiate divorce proceedings. The representative from the Senate reported that steps are being taken to change the laws of certain Nigerian states that still prohibit widows to inherit. However, he failed to clarify what specific steps are being undertaken. The delegation failed to respond to a question on the number of women covered by the Shari'a legal system, only commenting that non-Muslims are not affected by such laws.

### Other issues

The Committee also engaged the delegation in discussion on the following themes: participation in politics and decision-making (Article 7); education and training (Article 10); poverty and employment (Articles 11 and 13); trafficking in women and exploitation of prostitution (Article 6); marriage and family relations (Article 16).

### Conclusions and next steps

At the conclusion of the interactive dialogue, the Head of delegation thanked the Committee for the constructive dialogue, and assured Committee members that their comments and observations would not be taken lightly.

In her concluding remarks, the Committee Chair stressed the importance of monitoring the implementation of the Convention in Nigeria, and drew attention to the following issues that remain of concern to the Committee: domestication of the Convention, the elimination of discriminatory laws, and the need for decrease in maternal mortality rates.

In its Concluding Observations,<sup>9</sup> the Committee recalled its previous recommendation and urged Nigeria to prioritize the domestication of the Convention. The Committee expressed serious concern at discriminatory laws still found in the Constitution, federal and state legislation. The Committee urged Nigeria to accelerate its legal reform efforts and to set a timetable for the amendment of the Constitution and all legislation that discriminate against women. Further, the Committee recommended that Nigeria conduct awareness-raising and advocacy campaigns involving parliamentarians, civil society and the general public, including religious and traditional leaders to promote gender equality. Further, the Committee expressed concern at inconsistencies in the legal system, created by the application of statutory, customary and sharia laws and noted the existence of discriminatory provisions within these sources of law. The Committee urged Nigeria to accelerate the harmonization of laws in line with articles 2 and 16 of the Convention. The Committee recommended that Nigeria repeal the provision of the Constitution that lends support to early marriages by women and urged Nigeria to ensure all states adopt the Child Rights Act without delay. Noting the lack of progress on the issue, the Committee was especially concerned at the high maternal mortality rate. The Committee urged Nigeria to address the matter as a matter of priority by allocating adequate resources to increase women's access to affordable health services, particularly pre-natal, post-natal and obstetric care.

Two other UN treaty bodies have delivered concluding observations in relation to Nigeria, and both addressed similar concerns to those of the CEDAW Committee. In 2005, the Committee on the Elimination of Racial Discrimination (CERD) expressed concern about the persistence of gender-related dimensions of religious discrimination, in particular, the way Muslim women are subjected to harsher penalties and discriminatory laws against women in terms of citizenship rights.<sup>10</sup> The CERD urged that the State ensure equal treatment before the courts and all other organs administering justice and to bring the Constitution and laws in line with

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<sup>9</sup>CEDAW, *Consideration of reports submitted by State Parties under article 18 of the Convention. Concluding Observation: Nigeria*, 41<sup>st</sup> session, 18 July 2008, CEDAW/C/NGA/CO/6, available at <http://www.ohchr.org/EN/countries/AfricaRegion/Pages/NGIndex.aspx>

<sup>10</sup>CERD, *Consideration of reports submitted by State Parties under article 9 of the Convention. Concluding Observation: Nigeria*, 67<sup>th</sup> session, 19 August 2005, para.20 and 21, CERD/C/NGA/CO/18, available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CERD.C.NGA.CO.18.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CERD.C.NGA.CO.18.En?Opendocument)

the State party's commitments under the CERD. In 2005, the Committee on the Rights of the Child (CRC) reiterated its concern that children belonging to vulnerable groups, including girls, continued to face serious and widespread discrimination. The CRC recommended that the State party increase efforts to adopt appropriate legislation to combat discrimination.<sup>11</sup>

Nigeria was invited to submit its combined seventh and eighth periodic report as one document in July 2014.

*Last revised and updated: 11 August 2008.*

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<sup>11</sup> CRC, *Consideration of reports submitted by State Parties under article 44 of the Convention. Concluding Observation: Nigeria*, 38<sup>th</sup> session, 13 April 2005, paras.29-30, CRC/C/15/Add.257, available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.257.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.257.En?Opendocument)

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## **ABOUT THE PUBLICATION**

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