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Summary record of the 3614th meeting

Held at the Palais Wilson, Geneva, on Thursday, 4 July 2019, at 10 a.m.

Chair: Mr. Fathalla

Contents

Consideration of country situations in the absence of reports, pursuant to rule 70 of the Committee's rules of procedure (*continued*)

Situation in Nigeria considered in the absence of a report (continued)

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The meeting was called to order at 10.10 a.m.

Consideration of country situations in the absence of reports, pursuant to rule 70 of the Committee's rules of procedure *(continued)*

Situation in Nigeria considered in the absence of a report (continued)
([CCPR/C/NGA/Q/2](#) and [CCPR/C/NGA/Q/2/Add.1](#))

1. *At the invitation of the Chair, the delegation of Nigeria took places at the Committee table.*
2. **Mr. Heyns** said that, in relation to the questions he had asked the previous day regarding the use of force and firearms in Nigeria, he would be grateful if the delegation could explain how the principles of necessity and proportionality were recognized, either in legislation or in case law. He would also appreciate clarification on whether the findings of the National Human Rights Commission were legally binding.
3. The Committee had received reports that, although the Anti-Torture Act of 2017 prohibited the use of confessions extracted through torture, in practice such confessions were often used in courts, especially when individuals were not represented by lawyers. As the Act did not seem to address the rehabilitation of victims of torture, he wondered whether any other provisions or programmes were in place for that purpose. He would like to know whether allegations that torture was practised in Nigeria by agents of the Special Anti-Robbery Squad were being investigated. In addition, the Committee would welcome data on the number of complaints lodged with and processed by the Complaint Response Unit.
4. According to some sources, political influence was still exerted on judges, and politicians often played a more active role than the National Judicial Council in the appointment of judges. He would like to know more about the 15 judges who had reportedly been investigated since the beginning of 2018. Was it true that the accused, particularly in terrorism cases, often had no legal representation? Lastly, he would welcome further information on mass trials of terrorism suspects.
5. **Mr. Muhumuza** said that he would appreciate information on the measures taken to improve conditions in places of detention, particularly with respect to overcrowding, sanitary conditions and access to medical care, food and water. The State party should provide data, disaggregated by facility, on the total prison population and the official prison capacity. The Committee had received information indicating that beds and bedding were inadequate in many places of detention and that a number of prisoners slept either on bare floors or on mats. He would appreciate information on the measures taken to address those problems. It would be useful to know what was being done to remove obstacles to the effective implementation of the prison reform programmes that the State party had tried to implement.
6. The delegation should provide information on the large-scale evictions and demolition of homes, in particular in the Ilubirin and Otodo-Gbame communities of Lagos State, which had allegedly affected 50,000 people since 2013. He would like to know how allegations of excessive use of force by law enforcement agents assisting demolition teams were being investigated and what reparations had been granted to victims, including to those who had lost their livelihoods. Information on steps taken to investigate the whereabouts of all those reported missing during the Ilubirin and Otodo-Gbame forced evictions would be welcome. He wished to know what the Government was doing to provide alternative accommodation to those displaced, remedy the separation of thousands of families and help the children who had been forced to stop their education on account of the evictions. He would be interested to hear about the possibility of a moratorium on forced evictions until such time as the Lagos government had regulations in place to ensure that evictions complied with international and Covenant standards.
7. **Ms. Pazartzis**, referring to the Administration of Criminal Justice Act, said that she would appreciate clarification on whether individuals could be arrested without a warrant. Information on the legal safeguards in place to limit the abuse of arbitrary arrest by law enforcement agents would also be welcome. She was unclear as to whether and under what

conditions Civilian Joint Task Force members had the power to arrest individuals. She would welcome a response to allegations that the military had detained a large number of women without charge for alleged links with Boko Haram members. Lengthy pretrial detention periods reportedly remained a serious problem in the country; information on any measures put in place to address that problem would be welcome. She would like to know whether the wife of Ibrahim El-Zakzaky had received the compensation awarded to her by the courts.

8. Further information on how fundamental legal safeguards were applied in practice during the first 48 hours of detention would be useful. She would also be interested to hear more about the granting of bail, including whether it was discretionary and under what circumstances it could be refused.

9. While freedom of religion and belief was guaranteed under the Constitution, it was difficult to know whether that right was enjoyed in practice by all religious minorities in all the federal states. The Committee had received reports that Christians in the northern states experienced discrimination in accessing education, employment and permits to build churches. She would like the State party to provide information on measures to prevent and adequately respond to hate speech, incitement to religious hatred and mob violence. It would be helpful to know the current status of the pending bill in Kaduna State that would require all preachers to obtain licences.

10. **Mr. Shany** said that he would appreciate an update on the status of the Digital Rights and Freedom Bill and the reasons for any delays in its adoption. He understood that the Bill would deal with the issue of shutting down websites on the Internet. In that regard, the Committee was aware of instances in which websites had been shut down at the request of the Nigerian Communications Commission. He therefore wished to know more about the legal framework for making requests to shut down websites and what safeguards were in place to protect freedom of expression.

11. Regarding surveillance, he wished to know whether the counter-terrorism measures applied by the State party met necessity and proportionality requirements and whether those standards were recognized in the Terrorism (Prevention) Act of 2011. As the criteria for implementing surveillance seemed somewhat open-ended under the Cybercrimes Act of 2015, he would appreciate information on how they were interpreted in practice. According to news reports, extensive surveillance had been carried out in Abuja. He wondered whether the delegation could verify the veracity of those claims and confirm that there was a legal framework in place to prevent such abuses. It would be useful to know whether a comprehensive data protection act had been adopted in the State party to replace the data protection regulations already known to the Committee.

12. He wished to have more details on the violence that had occurred during the recent elections in the State party, including details of the number of people who had lost their lives and the causes of the incidents. He would like to know why the elections had been postponed and the probable reasons for the lower than expected voter turnout. An update on the status of the legal challenge by the leader of the opposition to the results of the election would be welcome. While the work of the Independent National Electoral Commission was generally viewed favourably, concerns had been expressed that the Commission did not have adequate funding for the discharge of its many duties. The Committee would like to know why the Electoral Amendment Bill had been vetoed by the President. Lastly, he wished to know whether the State party was taking measures to increase the participation of women in the political process and their access to elected positions.

13. **Ms. Brands Kehris** said that she wished to have information on the mandate of the Broadcasting Commission and any safeguards in place to ensure that it operated in line with article 19 of the Covenant. Specifically, in view of allegations that the Government exerted extensive control over electronic media through the board of the Commission, she wished to know what role the board played in sanctioning hate speech on radio and television stations, and how and where hate speech was defined. She would welcome information on the content and status of the bill on hate speech reportedly pending before the Senate, how it ensured compliance with article 19 of the Covenant and what safeguards were in place to ensure it was not applied too broadly or arbitrarily. Further, she would appreciate

information on the measures planned to align the provisions of sections 50 (2) and 60 of the 2004 Criminal Act with article 19 of the Covenant, and in particular to ensure that slander, libel and defamation were never punished by imprisonment. She would be grateful for the delegation's response to comments that libel accusations had been used as a pretext to harass journalists who were critical of the Government. She wished to know how many cases had been initiated in the past five years based on sections 50 (2) and 60 of the Criminal Act, how many of those had led to prosecutions and what the outcomes had been.

14. She would appreciate detailed information on section 13 (9) of the 2016 Digital Rights and Freedom Bill, explaining its legitimate aim, necessity and proportionality. In particular, she wished to know whether the Bill had entered into force and, if so, how it was applied in practice, how many cases had been initiated under it and what the outcomes of those cases had been. She also wished to hear the delegation's comments on allegations that section 24 of the Cybercrimes Act of 2015 was being used to arrest bloggers for publishing statements critical of the Government or high officials.

15. She wished to know if reports that the military had started monitoring social media for hate speech or content that undermined the Government, military or national security were true, and, if so, whether any budgetary allocations had been made to the National Security Adviser, the Department of State Security Services or other agencies for that purpose, whether any actual cases of hate speech had been identified, whether such monitoring had inhibited free speech, and how the results of that monitoring had been used. She wished to have the delegation's response to reports that journalists, activists and human rights defenders had been intimidated, harassed, arrested and detained for criticizing the Government or high officials, especially when exposing corruption, human rights violations and separatist or communal violence. What legislative, policy and other measures had been taken to recognize and protect human rights defenders and their work?

16. She would like to know how licences to organize peaceful assemblies were obtained, whether such gatherings were subject to prior authorization or merely notification, how many applications had been made in the past five years, how many licences had been granted, on what grounds licences could be refused, and what procedures were in place to appeal such refusals. It would also be useful to know the status of the bill on non-governmental organizations introduced in June 2016, which had reportedly been strongly opposed by stakeholders. Were there plans to adopt it or other bills aimed at regulating and monitoring civil society organizations, and, if so, what legal safeguards would be included to ensure compatibility with article 22 of the Covenant? Further, she would welcome the delegation's comments on reports that the Trade Unions Act impeded the establishment and activities of trade unions, especially section 3 (2) of the Act, which gave the Government wide discretion to refuse the registration of a union, and section 3 (1), which required a minimum of 50 members for registration, thus preventing the formation of unions in smaller enterprises. Could the delegation also respond to allegations of threats, harassment, arbitrary arrests and killings of trade union activists?

17. In view of the rich diversity of Nigeria, she wished to know whether the Government had established or planned to establish any strategies or policies for the comprehensive protection of minority rights, including the linguistic rights of ethnic groups that spoke less common languages and the right to effective and equal participation in all spheres of life, in particular in public affairs. In response to reports of structural discrimination and discriminatory practices and attitudes towards certain ethnic minorities in areas such as employment, housing and education, she would like to know what disaggregated data were collected as a basis for policymaking and what barriers, if any, were encountered in collecting such data. She would be interested to learn what measures were being taken to address the exclusion and segregation of certain ethnic groups, such as the Osu, and to prevent incitement to racial hatred, including against the Igbos.

18. The delegation should also provide statistics on ethnic representation in government at the local, state and federal level, including in the army and security sectors, and explain how the constitutional "federal character" principle ensured ethnic diversity. She would like to know the precise meaning of the term "indigene" in article 147 (3) of the Constitution, why a distinction was drawn between indigenes and settlers, including in the appointment of an indigene minister from each state, and whether the Federal Character Commission

had actually done anything to ensure ethnically diverse representation in the Government, particularly as ethnic and religious aspects were reportedly not taken into account when applying the federal character principle. She would appreciate the delegation's response to allegations that, although the policy of providing differentiated access to education and employment for indigenes and settlers was intended to ensure ethnic parity in those areas and to protect traditional cultures, the actual result had been the systematic marginalization of certain groups, fuelling resentment and ethno-linguistic identity politics and intensifying intercommunal tensions. Moreover, less numerous ethnic groups such as the Jarawa appeared not to enjoy indigene status where they resided or anywhere else, thus excluding them altogether from any affirmative measures.

19. Lastly, she would appreciate the State party's response to allegations that participation in decision-making was uneven among ethnic groups, and that decisions on natural resources in particular were made predominantly by certain groups while others that inhabited oil-rich areas, such as the Ogoni or Ikwerre, were excluded from or underrepresented in political life.

The meeting was suspended at 10.55 a.m. and resumed at 11.35 a.m.

20. **Mr. Saibaru** (Nigeria) said that persons could be arrested without a warrant where there were reasonable grounds to believe that they had committed, or were about to commit, a serious offence. Law enforcement agents used proportionate force, including when restraining arrestees who became violent.

21. **Mr. Ayuba** (Nigeria) said the claim that suspected members of Boko Haram had been tried en masse without legal representation was false. The trials had been televised, so any failure to follow due process would have been clear to see. The charges had been read to each defendant in turn and legal representation had been provided. Fair trials had been ensured regardless of how the suspect pleaded, and convictions and sentences were read aloud. Case backlogs had developed precisely because of that respect for due process. The professionalism and independence of judges in Nigeria was beyond doubt. Judgments in cases involving government officials, such as the order of the Supreme Court to revoke the governorship of Celestine Omehia in 2007, were duly implemented.

22. **Mr. Saibaru** (Nigeria) said that the National Judicial Council approved appointments to the judiciary without any influence from the Government. Indeed, applicants with letters of recommendation from politicians could not be considered for posts. For appointments to the Supreme Court, the President selected the most suitable candidate for approval by the Senate based on the Council's recommendation. However, politicians in general had no influence on the appointment of judges.

23. Judgments awarding compensation to victims could be appealed, so compensation was not necessarily paid immediately after those judgments were pronounced. The Government did not have any information on the specific case of the wife of Ibrahim El-Zakzaky and any compensation owed to her.

24. **Mr. Kadiri** (Nigeria) said that he was not aware of any cases of bloggers being intimidated, persecuted or arrested. He also questioned the veracity of reports of trade union activists being harassed, arbitrarily arrested and even killed. No such incidents had been brought to his attention, even though he had recently met with the leader of the National Union of Road Transport Workers.

25. He could confirm that all detainees had the opportunity to challenge the reasons for their detention before a court: such mechanisms and the provision of legal counsel were a basic requirement of the legal system of any democratic State.

26. **Mr. Oliyide** (Nigeria) said that freedom of expression was fully protected and journalists and bloggers were able to carry out their activities without harassment. Nigeria had a free press and, although much of the electronic media was admittedly run by the Government, there were also sites operated by private entities, as well as several independent radio and television stations. A good example was Human Rights Radio, a privately run station that broadcast daily from Abuja and had never been forced off air in spite of the views it advocated.

27. **Mr. Ayuba** (Nigeria) said that the Nigerian prison system was currently undergoing major reform. A particularly important advance had been the introduction of free access to education for detainees, from secondary through to university level. A number of prisoners had since obtained degrees from the National Open University of Nigeria and three were currently pursuing postgraduate studies. For the less academic, vocational training in carpentry, tailoring, motor mechanics and other trades was available, the aim being to provide prisoners with skills that facilitated their reintegration upon release.

28. In an effort to ease overcrowding in Kano prison, one of the country's most dated and most congested facilities, a brand new prison had been built to which prisoners were being progressively transferred. Modern cell blocks had also been constructed at most of the country's other urban prisons. In addition, agreements for the construction of new wings had been concluded with a number of European countries, including the United Kingdom. The idea was that prisoners of Nigerian origin could thenceforth be repatriated to serve their sentences.

29. Bedding and mattresses had now been provided in all prisons. In any case, reports of insufficient provisions related primarily to prisons in isolated places that had only a very small number of inmates. Only prisons in urban centres had significant populations. A prison reform bill that, if passed, would change the name of the Nigerian Prison Service to the Nigerian Correctional Service was currently before the National Assembly. Budget approvals for the sector were being progressively increased to fund the ongoing reforms.

30. **Mr. Saibaru** (Nigeria) said that a visiting programme administered by the National Human Rights Commission under which specially selected lawyers took part in an annual tour of the country's prisons had also contributed to marked improvements in conditions of detention and the situation of prisoners. Each participating lawyer was assigned at least five cases to oversee and undertook to represent the detainees concerned until they were brought to trial, with the Government meeting the cost of all services provided.

31. **Mr. Kadiri** (Nigeria) said that reports of demolition teams using excessive force to evict families from homes in illegal zones and families being forcibly separated in the process, as highlighted by the United Nations Special Rapporteur on adequate housing, were, in his view, exaggerated. It was important to remember that Nigeria was a country undergoing rapid development and modernization and that clearing dangerous slum settlements was a part of that process. The Government simply wished to relocate families living illegally in conditions where their health and safety were at risk, such as underneath high-tension cables or close to the sea where they were at the mercy of the vagaries of climate change. In all cases, the families concerned were given due notification and were found alternative accommodation.

32. **Mr. Oliyide** (Nigeria) said that all persons displaced during the evictions in Lagos had been found homes in one of the three senatorial districts of Lagos State and all their children were now attending school. The displaced fishermen had been found new work and had thus recovered their livelihoods. The Government had in some cases even found work for those who had previously been unemployed. In essence, therefore, the Government was addressing issues of safety, health and risk mitigation as well as planning and housing. The families concerned had been living in unauthorized ramshackle structures that were often unfit for human habitation and, although it had no legal obligation to provide them with alternative accommodation, the Government had stepped in to help them and provide for their needs. The National Emergency Management Agency and Lagos State Emergency Management Agency had also contributed to the reintegration, resettlement and rehabilitation process.

33. Nigeria guaranteed freedom of religion. The law that prohibited preaching in Kaduna State in all public places other than mosques and churches was intended to stop religious platforms being used to disseminate hate speech and foster radicalization. It was not an attack on Christianity; its provisions were aimed at any proponent of any religion who wished to preach or sermonize outside of a recognized place of worship. Pursuant to the law, those who wished to do so were required to seek prior authorization and accreditation from the Government but they were not in any way prevented from practising their religion.

34. **Mr. Oluborode** (Nigeria), responding to concerns about constraints on freedom of expression and information, said that there was no targeted monitoring of websites or Internet usage in Nigeria. Monitoring was limited to the routine law enforcement and crime prevention activities of the security forces. Human rights activists benefited from the same safeguards as all other Nigerians and were not subjected to any form of special treatment.

35. **Mr. Kadiri** (Nigeria) said that the Government had had no role in the postponement of the recent elections. The decision had been taken by the electoral commission, which was fully independent. The President himself had in fact been somewhat upset, as he had already travelled to his village to vote.

36. Turnout had been low because Nigeria was a free democracy and voting was not a legal obligation. That said, turnout among internally displaced persons in the north-east of the country had been well above average; there was no truth in reports that they had not been allowed to vote.

37. Mechanisms for challenging votes considered unfair were provided for in the Electoral Act. However, observers from the European Union, the African Union and partner nations had all concluded that the outcome was by and large a just representation of the will of the people. There had admittedly been isolated cases of violence, but the perpetrators were in most cases facing prosecution and it was wrong to make generalizations on the basis of a few incidents.

38. **Ms. Aliu** (Nigeria) said that, prior to the last elections, back in 2017, the Federal Ministry of Women's Affairs had been led by a very dynamic minister who had called for a dedicated committee to be established to develop strategies for increasing women's representation in elected office and promoting gender equality. That minister had lobbied the Constitutional Review Committee to have affirmative action measures incorporated into the Constitution. The Committee had agreed but, because political parties were considered as non-governmental organizations, they were excluded from the scope of the resulting constitutional provision. The minister had then organized high-level advocacy visits to leading political parties to encourage them to include women in their administrative set-up and introduce electoral quotas. The high-level delegations brought together for those meetings had included leaders of prominent civil society organizations focused on women's political representation. The parties had made a commitment to introduce the requested quotas but, when the elections came, had been unable to deliver on their promises.

39. During the elections, the Ministry had ascertained that violence also tended to keep women away, despite the existence of programmes to subsidize and support women's participation and get them to come out and vote. Because attempts to increase women's representation in the current Government had failed, the focus had now shifted to lobbying for the appointment of women to non-elective senior positions in government agencies and other bodies that had a critical role in decision-making.

40. **Mr. Mustapha** (Nigeria) said that an unprecedented number of women had cast their vote in the most recent elections. That fact, the election of the first female deputy governor in the history of north-western Nigeria and the participation of female presidential and vice-presidential candidates were clear indications of the progress made in regard to the political participation of women in the country.

41. **Mr. Ayuba** (Nigeria) said that the right of peaceful assembly was enshrined in Nigerian legislation. Prior notification of the authorities was required but served the sole purpose of guaranteeing the safety of participants. Otherwise, the right of peaceful assembly was not curtailed in any way.

42. **Mr. Saibaru** (Nigeria) said that the procedure for the registration of trade unions in Nigeria was set forth in the Trade Unions Act. Under the Act, applications from groups that bore the same or a very similar name as an existing union or groups that pursued objectives that were identical to those of an existing union could be rejected. All other requests, even from groups with a relatively small membership, were generally granted.

43. **Mr. Ayuba** (Nigeria) said that a total of 23,100 convicted criminals were currently detained in Nigerian prisons; 50,925 persons were held in pretrial detention.

44. **Mr. Kadiri** (Nigeria) said that his delegation would provide the Committee with detailed health statistics in writing, but drew particular attention to maternal mortality, which remained high at a ratio of 576 deaths per 100,000 live births.

45. **Mr. Mustapha** (Nigeria) said that according to statistics of the Economic and Financial Crimes Commission, 528 persons had been convicted of crimes of corruption between 2013 and 2016, including 43 former governors, senators and high-ranking public officials. The Independent Corrupt Practices and Other Related Offences Commission had processed 337 criminal cases as at May 2019. Since its inception in 2000, the Commission had received 15,129 petitions and investigated and assigned 7,289 cases; 304 proceedings were ongoing and 93 cases had resulted in convictions. The Petroleum Industry Governance Bill had been passed by the National Assembly, the Senate and the House of Representatives and was now pending endorsement by the President.

46. **Mr. Oliyide** (Nigeria) said that the Proceeds of Crime Bill of 2017 had been transmitted to the President for assent. Pending its adoption, Nigeria had a range of other instruments at its disposal to tackle corruption, including Executive Order VI on preservation of suspicious assets, which had been validated by a ruling of the Federal High Court. The Government had also released a list of looters, as well as the names of 50 persons on trial pursuant to Executive Order VI. The Nigerian Financial Intelligence Unit prepared currency transaction reports, identified suspicious transactions and coordinated the implementation of measures to stall illicit financial flows, forestall money-laundering and ensure that corruption was tackled effectively. The Unit was fully compliant with the requirements of the United Nations Convention against Corruption. Nigeria was also a member of the Egmont Group of Financial Intelligence Units and party to a range of regional and international anti-corruption agreements. The Government did its utmost to follow international best practices, including by investigating assets dissipation during investigation and trial and following up on the proceeds of illicit activities. More international support to enable the extraterritorial application of relevant laws and greater mutual legal assistance would be beneficial.

47. **Mr. Saibaru** (Nigeria), replying to the Committee's concerns regarding customary practices that undermined gender equality, said that Nigeria was home to 250 ethnic groups with varying laws and customs. If the customary law of one ethnic group denied women inheritance rights, for example, the same was not necessarily true of the remaining 249 groups. Judgments rendered by the country's highest court, on the other hand, were binding for all citizens. The Supreme Court of Nigeria had recently delivered a landmark judgment that voided the Igbo law and custom prohibiting daughters from inheriting their father's estate.

48. **Ms. Anagbogu** (Nigeria) said that the Supreme Court judgment had been a milestone on the road towards gender equality in Nigeria. In response to United Nations Security Council resolution 1325 (2000) on women, peace and security, Nigeria had developed a national action plan which had led to far-reaching changes: women were now admitted to traditional councils from which they had historically been excluded, thus enabling them to participate in decision-making and shape the policies that affected them directly, including those relating to inheritance.

49. **Mr. Saibaru** (Nigeria) said that efforts had been stepped up to implement life-saving interventions for women and infants, which included immunization, the provision of affordable medicines and the promotion of breastfeeding. Action had also been stepped up with regard to training for health workers, the establishment of community health centres in rural and remote areas, the promotion of environmental sanitation and hygiene, and the provision of free medical care for pregnant women and the elderly.

50. **Mr. Kadiri** (Nigeria) said that the allegations of structural discrimination against certain ethnic groups in Nigeria were baseless. Nigeria was a federation of states that was organized according to a three-tiered system of Government, not according to ethnic affiliation. The country's strength lay in its diversity, but ethnic and tribal origin had no bearing on the social engineering of the country and was not used as a building block for nation-building. Any attempts to draw a distinction between people on the basis of ethnic origin or identity would jeopardize the country's unity. Political appointments, public posts

and the composition of legislative and executive bodies reflected the country's administrative, rather than ethnic, make-up.

51. **Mr. Shany** said that he would like to receive additional details on the current status of the Digital Rights and Freedom Bill, which was an important and groundbreaking instrument. In particular, he would like to know if it was true that the President had indicated that he would reconsider his rejection of the Bill if it was revised.

52. **Mr. Kadiri** (Nigeria) said that his delegation shared the Committee's concern for the welfare of the Nigerian people. It was grateful to the Committee for its helpful remarks and looked forward to continuing the constructive dialogue.

53. **The Chair** said he would like to remind the delegation that, while countries were free to assume the obligations enshrined in international instruments or not, once they had ratified the instrument, those obligations, including reporting obligations, became binding. Nevertheless, he had found the dialogue to be fruitful and he wished to thank the delegation for its replies to the Committee's questions.

The meeting rose at 1.05 p.m.