



International Convention for the Protection of All Persons from Enforced Disappearance

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Summary record of the 452nd meeting

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Chair: Mr. de Frouville

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties to the Convention *(continued)*

Initial report of Nigeria (CED/C/NGA/1; and CED/C/NGA/Q/1)

1. *At the invitation of the Chair, the delegation of Nigeria joined the meeting.*
2. **The Chair** said that the Permanent Mission of Nigeria had informed the Committee that it was unable to send a full delegation to take part in the interactive dialogue. Instead, two representatives of the State party would attend the meeting to take note of the questions and concerns raised by Committee members. Those questions and concerns would then be transmitted to the Government, which would submit written replies to the Committee within 48 hours. While the Committee was grateful for the presence of the representatives of the State party in attendance, it was regrettable that an interactive dialogue could not take place.
3. **Mr. Adamu** (Nigeria), introducing his country's initial report (CED/C/NGA/1), said that, as a new Cabinet of ministers had only recently been sworn in, it had not been possible to send additional delegation members to attend the meeting. Their absence should not, however, be misconstrued as a lack of commitment on the part of the Government of Nigeria to the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance.
4. His Government treated cases of enforced disappearance that occurred in the country, particularly in conflict-affected regions, with great seriousness, and had taken several steps to address the issue. Nigeria was a State party to several international human rights instruments, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and had enacted and enforced domestic legislation explicitly criminalizing and punishing enforced disappearance, such as the Anti-Torture Act of 2017. The National Human Rights Commission was the institution mandated to investigate allegations of enforced disappearance and other human rights abuses.
5. The Nigerian security forces and other Government agencies underwent continuous training on the need to uphold the principles of the rule of law, human rights and fundamental freedoms. Human rights desks had been established within every branch of the Nigerian Armed Forces and security services, in all regions of the country, to receive and follow up on complaints of human rights abuses, including possible excesses by military and other security service personnel. Such complaints were duly investigated and, in some cases, suspects were sent to stand trial. A judicial panel of inquiry was responsible for assessing the compliance of the Nigerian Armed Forces with the rules of engagement laid down by the military authorities in all regions of the country where the military operated, not just in areas of insurgency.
6. **Ms. Janina** (Country Rapporteur) said that, while it was regrettable that the State party had not yet submitted written replies to the list of issues drawn up in response to its overdue initial report (CED/C/NGA/Q/1), she hoped that, despite the multiple challenges Nigeria was facing, it might step up its efforts to address human rights issues and cooperate more fully with the Committee on Enforced Disappearances and other human rights treaty bodies.
7. According to the information available on the United Nations Treaty Collection website, the State party had still not made the declarations recognizing the competence of the Committee to receive and consider individual and inter-State communications under articles 31 and 32 of the Convention, respectively. She wondered when the State party might take that step.
8. She would welcome additional information on the extent to which civil society and the National Human Rights Commission had been involved in the process of preparing the State party's initial report. More information about the mandate of the National Human Rights Commission and its activities in relation to the prevention and eradication of enforced disappearance would also be appreciated.
9. It would be helpful to have updated statistical information about any complaints of enforced disappearance that had been received by the National Human Rights Commission

and information about the follow-up given to such complaints and their outcome, including any reparations awarded to victims and the number of cases referred to the competent authorities for criminal prosecution.

10. In view of the information provided in paragraphs 23 to 26 of the initial report, on the domestication of international treaties and the status of the Convention, she wondered why the Convention had still not been incorporated into the State party's domestic legal system and when the State party planned to remedy that situation. Could the provisions of the Convention be invoked directly before and applied by the national courts? Examples of cases decided on the basis of similar domestic law provisions would also be appreciated. Bearing in mind the federal structure of the State party, it would be helpful to learn about any measures taken to ensure that legislation and practice at the federal, state and local levels were fully consistent with the obligations set forth in the Convention, and about the impact of such measures.

11. In view of the recent upsurge in acts of enforced disappearance in the State party, it would be useful to receive up-to-date, disaggregated statistical information on the victims of those acts, the number of those persons who had been located and the number of cases in which there had been some form of State involvement. An update on the progress made towards establishing a database on missing persons in the State party would also be welcome.

12. The State party might indicate whether the domestic legislation explicitly criminalizing and punishing enforced disappearance established it as an autonomous offence in accordance with article 2 of the Convention, whether it prescribed penalties that were commensurate with the extreme seriousness of the offence, while avoiding the death penalty, and whether it included the aggravating and mitigating circumstances listed in article 7 (2) of the Convention.

13. She wished to know whether the State party planned to adopt a provision similar to section 3 of the Anti-Torture Act to ensure that no derogation from the right not to be subjected to enforced disappearance could be made under exceptional circumstances, including in a state of emergency. The State party might also comment on allegations that measures taken in the context of the state of emergency declared in north-east Nigeria had undermined the effective implementation of the Convention, including allegations of detainees' having been denied access to a lawyer and visits from relatives.

14. In view of the State party's affirmation that there was no record of any complaints of acts of enforced disappearance committed by the Nigerian Police Force or other authorities, it might comment on allegations that acts of enforced disappearance had been perpetrated by the Nigerian security forces in the context of counter-insurgency operations. If there was any truth to those allegations, she would like to receive information on the measures taken to bring the perpetrators to justice and to provide reparation to the victims. Details of the action taken in response to the finding by the Special Investigation Panel that members of the Special Anti-Robbery Squad and other special units of the Nigerian Police Force had carried out acts of enforced disappearance would be appreciated, as would information about the criminal action taken against the suspects, the number of convictions secured and the reparations provided to the victims. It would also be interesting to know whether the Presidential Investigation Panel, or any other mechanism, had investigated allegations of enforced disappearance and, if so, what the outcome of those investigations had been.

15. She would appreciate additional information about the efforts made by the State party to investigate acts defined in article 2 of the Convention committed by persons or groups of persons acting without the authorization, support or acquiescence of the State, such as the abductions carried out by Boko Haram; to bring those responsible to justice; to search for and locate victims who remained disappeared; to encourage and facilitate the reporting of such disappearances; and to prevent the recurrence of such acts. She would be grateful if the State party could also address allegations concerning the disappearance of lesbian, gay, bisexual, transgender and intersex persons and, if those allegations were founded, outline the measures taken in response to those disappearances.

16. She wondered what progress had been made towards adopting the bill to punish crimes against humanity and to give effect to certain provisions of the Rome Statute of the International Criminal Court mentioned in the State party's initial report, and whether the bill

criminalized enforced disappearance when it constituted a crime against humanity. She also wished to receive clarification as to whether a statute of limitations applied to acts of enforced disappearance and, if so, to know in which domestic law provisions it was enshrined.

17. She would be grateful to receive information on the measures taken to ensure that any person tried for an act of enforced disappearance received a fair trial and that the independence and impartiality of the courts were respected. Were customary and sharia courts competent to adjudicate alleged cases of enforced disappearance and, if so, what punishments could they impose?

18. The Committee was of the view that military jurisdiction could limit the effectiveness of investigations into and the prosecution of acts of enforced disappearance and that the jurisdiction of military courts should be set aside in favour of the jurisdiction of ordinary courts to conduct inquiries into serious human rights violations, such as enforced disappearance, and to prosecute and try persons accused of such crimes. She would therefore be interested to know about any circumstances in which military authorities might be competent to investigate or prosecute alleged cases of enforced disappearance and under which domestic law provisions.

19. It would be helpful to hear more about the measures taken to ensure that the State party's authorities had the powers and resources necessary to investigate alleged acts of enforced disappearance effectively, including access to the documentation and other information relevant to their investigation and access to the place of detention or any other place where there were reasonable grounds for believing that a disappeared person might be present. Could an investigation into an act of enforced disappearance be carried out in the absence of a formal complaint?

20. She would welcome information on any legal or administrative measures adopted to ensure that persons suspected of having committed an offence of enforced disappearance could not influence investigations, including confirmation as to whether Nigerian law provided for the suspension from duty, from the outset and for the duration of an investigation, of alleged offenders who were State officials and whether there were mechanisms in place to ensure that law enforcement and security forces did not participate in such investigations when one or more of their officials were suspects. Information on the mechanisms and measures in place to protect from ill-treatment and intimidation persons participating in investigations into offences of enforced disappearance and an update on the bill to establish a witness protection programme would also be appreciated. Would that programme cover all the persons mentioned in article 12 (1) of the Convention?

21. **Mr. Albán-Alencastro** (Country Rapporteur) said that he wished to know whether the State party planned to explicitly prohibit carrying out an expulsion, return, surrender or extradition when there were substantial grounds for believing that the person would be at risk of enforced disappearance. The State party might also explain how that risk was assessed and verified in the context of those procedures and indicate whether it might accept diplomatic assurances in such cases, whether the decision authorizing an expulsion, return, surrender or extradition could be appealed and, if so, before which authority and under which procedure, and whether such appeals had a suspensive effect.

22. The Committee had received reports that secret detention was used during military operations; he would therefore like to hear about the measures in place to prevent such acts and to ensure that, from the outset of the deprivation of liberty, all persons deprived of their liberty, regardless of the reason for their detention, had access to a lawyer and could inform their family or any other person of their detention. Similarly, he would be grateful for an update on any steps taken towards enshrining in domestic law the right of foreign nationals deprived of their liberty to consular assistance, and details of any restrictions that could be placed on the right of persons deprived of their liberty, including terrorist suspects, to communicate with their family, counsel, consular representatives or any other person.

23. The State party might clarify whether registers of persons deprived of their liberty generally included all the details set out in article 17 (3) of the Convention and whether they contained information on all persons deprived of their liberty, regardless of the reason for or the place of the deprivation of liberty, or whether there were separate registers for persons detained in locations other than prisons and police facilities. What measures had been taken

to ensure that those registers were kept up to date? The State party might respond to the concern expressed by the Committee against Torture that, in Nigeria, registers of persons deprived of their liberty were not used systematically and consistently at all stages of detention.

24. He would be interested to learn about the steps taken to ensure that any person with a legitimate interest had direct access to at least the information on persons deprived of their liberty set out in article 18 (1) of the Convention, including persons in military detention, and about the circumstances in which such access could be restricted and for how long. He wondered how persons who sought such information and participated in investigations into acts of enforced disappearance were protected from ill-treatment, intimidation and sanctions. Lastly, he wished to know whether the Penal Code in force in the northern states contained provisions penalizing the failure to keep records of persons deprived of their liberty, the falsification of such records and the refusal to provide the information contained therein.

25. He would like to know how the State party enforced the legal provisions protecting the right of persons deprived of their liberty to be released in a manner that was verifiable, ensured their physical safety and guaranteed their rights at the time of their release. Details of any training on the Convention dispensed to military and civilian law enforcement officers, medical professionals, public officials and other persons involved in the custody or treatment of persons deprived of their liberty would also be appreciated.

26. He wondered whether the Violence Against Persons (Prohibition) Act of 2015 applied throughout the State party and, if not, whether there were other legal provisions in force that defined victims of enforced disappearance and established a system of reparations, in line with article 24 of the Convention, and specified that the State was responsible for providing comprehensive reparation to victims. He would also welcome clarification as to whether victims needed to initiate criminal proceedings in order to obtain reparation, as well as disaggregated statistical information on the reparations provided to victims since the Convention had entered into force for Nigeria.

27. It would be useful to receive information on how the right of victims of enforced disappearance to the truth was guaranteed, including confirmation as to whether that right was explicitly enshrined in Nigerian law. The State party might also provide an overview of the measures adopted, in law and in practice, to ensure that searches for alleged victims of enforced disappearance were launched immediately and *ex officio*; the protocols and procedures for searching for, locating and releasing disappeared persons; and the steps taken to ensure that searches continued until the fate of the disappeared persons had been clarified.

28. He would like to know what was being done to ensure that all mass graves in the State party were located; how many such graves had been located to date; how the remains of disappeared persons found there were identified and returned to their families in a respectful manner; what progress had been made in setting up a genetic database to assist in identifying the remains of those persons; whether investigations had been carried out in connection with those mass graves and, if so, what results those investigations had yielded, including whether the perpetrators of the disappearances had been identified and punished; and how the relatives of those disappeared persons were kept informed of the progress of any investigations conducted.

29. He wished to know whether Nigerian law expressly criminalized the conduct described in article 25 (1) of the Convention and, if not, whether the State party planned to adopt specific legislation to that end. He would also like to know whether any complaints of the wrongful removal of children had been submitted to the authorities since the Convention had entered into force for Nigeria and to learn more about the system of adoption or other forms of placement of children, including whether there were legal procedures for the review and, where appropriate, the annulment of adoptions or guardianship arrangements that had originated in an act of enforced disappearance. If no such procedures existed, he wondered whether steps had been taken to align Nigerian law with article 25 (4) of the Convention.

30. **The Chair** said that the Committee would adopt concluding observations based on the information at its disposal and hoped to meet with representatives of the State party in the near future to clarify any pending issues and to determine the measures necessary to further the implementation of the Convention in Nigeria.

31. **A representative of Nigeria** said that the Government sincerely regretted that it had been unable to send a full delegation to participate in the interactive dialogue with the Committee.

The meeting rose at 11.10 a.m.