

This manual is both timely and a very useful resource material for every person or institution interested in the training of the police on human rights and torture prevention. I commend PRAWA, the Nigerian Police Force and the Switzerland Embassy in Nigeria for this very unique and important work and whole heartedly endorse this manual for all.

Catherine Dupe Atoki

Chairperson; African Commission on Human and Peoples' Rights

Explaining to people within the police force the consequences of torture and offering them other ways to fulfil their police duties is a very important pillar in our prevention work - and one that has proven to be extremely efficient.

Brita Sydhoff

Secretary-General,

International Rehabilitation Council for Torture Victims (IRCT)

The Manual on Human Rights Training and the Prevention of Torture developed by PRAWA for the Nigerian Police is an important tool in the promotion of human rights and the prevention and eradication of torture. The manual succeeds in disaggregating complex international regional instruments for a police audience. ...It speaks to different audiences and various strata within the police - from recruit to unit and station commanders, to state and national police leadership - on their respective responsibilities for combating and preventing torture.

Importantly the training presented at the point of police service delivery and with citizen participation encourages on going dialogue between police and community on these critical issues

Sean Tait,

Coordinator, African Policing Civilian Oversight Forum

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MANUAL ON HUMAN RIGHTS AND TORTURE PREVENTION FOR THE POLICE

MANUAL ON human rights training AND TORTURE PREVENTION FOR THE POLICE

Foreword by
**Catherine
Dupe Atoki**
Chairperson;
African Commission on
Human and
Peoples' Rights

Written By: Uju Agomoh, Ijeoma Opara, Anthony Agbor, Henry Anoliefo



...development starts with you



SWITZERLAND
EMBASSY



THE NIGERIAN
POLICE

MANUAL ON human rights training AND TORTURE PREVENTION FOR THE POLICE

Foreword by
**Catherine
Dupe Atoki**
Chairperson;
African Commission on
Human and
Peoples' Rights

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The authors bear the sole responsibility
for any error(s) or misrepresentation(s) in this publication

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Foreword

The Importance of human rights principles and its observance including torture prevention cannot be underestimated in any given society/country. It engenders harmonious co-existence, peace and development. At the heart of this is the respect for human dignity and value for life. This respect and value is accruable to ALL – every human being irrespective of gender, age, religion, class, nationality, ethnicity etc. In protecting these rights, the role of the police is very important. Furthermore, given the duties and functions of the police with regards to the enforcement of laws, prevention of crime, apprehension/arrest of suspects and interrogation of suspects etc., there is greater exposure of the police to several situation testing and demanding compliance with these human rights principles. It can safely be said that the quality and performance of the police and its image both in the eyes of the citizen of a given country and in the international community to a large extent determines the image of the government of that country.

The compliance level of every country to international human rights standards expressed in the country's observance of all regional and international human rights conventions, protocols,

declarations etc. is regularly put under the searchlight. At the International level this is done through several mechanisms including the United Nations Universal Period Review (UPR) process while at the Regional/Continental level this is done through the mechanisms of the African Commission on Human and Peoples Rights including through Commission's request for periodic State Reporting and Fact Finding Missions etc. Thus, the observance of human rights principles is of great benefit to all countries.

The mandate of the African Commission on Human and Peoples' Rights is the promotion and protection of human rights in Africa. Therefore as the Chairperson of the Commission, I am indeed very happy to do the foreword to this Manual on Human Rights Training and Torture Prevention for the Police. The topics covered by this manual are very apt and of key interest to me having been the Special Rapporteur on Prison and Conditions of Detention in Africa for the African Commission as well as the Chairperson for the Committee on the Prevention of Torture in Africa (CPTA).

The manual contains nine modules which includes the following: Introduction on Policing and the Nigerian Police Force; Introduction to Human Rights; Why Protect the rights of detainees and prisoners – the rationale, Overview of Human Rights Instruments; Specific Focus on the United Nations Code of Conduct for Law Enforcement Officials; Specific Focus on Instrument in Relation to Torture, Cruel, Inhuman and Degrading Treatment or Punishment; Effects of Non-observance of Human Rights Principles; Oversight Mechanisms; and Recommendations. The manual is indeed very rich and well researched. It is also a very useful training tool proving specific learning objectives and outcomes as well as exercises for each of

the modules. The manual also included a section on frequently asked questions, pre and post - test sample questionnaires, references and further Reading materials and an appendix section containing relevant Laws and Conventions.

This manual is both timely and a very useful resource material for every person or institution interested in the training of the police on human rights and torture prevention. It is a good handbook for all police officers and other law enforcement agents. I commend PRAWA, the Nigerian Police Force and the Switzerland Embassy in Nigeria for this very unique and important work and whole heartedly endorse this manual for all.

Catherine Dupe Atoki
Chairperson; African Commission on Human and Peoples' Rights

Comment on the Manual

On behalf of the International Rehabilitation Council for Torture Victims (IRCT), I am pleased to give our support to PRAWA for their "Manual on Human Rights Training and Torture Prevention for the Police" PRAWA is a member centre of the IRCT and has extensive experience in Human Rights work, particularly related to prevention and rehabilitation within the area of torture.

Explaining to people within the police force the consequences of torture and offering them other ways to fulfil their police duties is a very important pillar in our prevention work - and one that has proven to be extremely efficient. We wish PRAWA all the best in using this manual.

Yours sincerely,

Brita Sydhoff
Secretary-General, IRCT

Comment on the Manual

Despite the absolute prohibition against torture at international law, its practice continues to be a feature of policing across Africa. Combating and preventing torture is exacerbated by the challenges of access to justice, weak oversight mechanisms, poorly trained and resourced police, archaic laws, regime policing and, recently, the legitimization of more questionable policing practices under the guise of anti terror efforts.

The Manual on Human Rights Training and the Prevention of Torture developed by PRAWA for the Nigerian Police is an important tool in the promotion of human rights and the prevention and eradication of torture. The manual succeeds in disaggregating complex international regional instruments for a police audience. The station based methodology allows for participation across ranks. It speaks to different audiences and various strata within the police – from recruit to unit and station commanders, to state and national police leadership – on their respective responsibilities for combating and preventing torture. Importantly the training presented at the point of police service delivery and with citizen participation encourages on going dialogue between police and community on these critical issues

Sean Tait,
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Introduction

The bane of good governance and true Democracy in any ideal society is the inability to emancipate the masses through adequate promotion of human rights and the prevention of all manner of insecurity and injustice. The burden of ensuring and enhancing effective justice/security service delivery globally rest first on the police and extend to include the Ministry of Justice, Court and the Prisons.

One of the major constraints of society under any system of government is the inability to systematically manage and/or control the dynamic nature of human beings as they interact in their social environment. Considering the behavioral disposition of humans generally, it is logical therefore to state herein that every society is prone to crisis and violence, it is under this premise that the statutory function of policing becomes relevant to every society.

Considering the number of cases lost as a result of the use of Torture to obtain confessional statements, poor and inconclusive investigations, extra judicial killings, unlawful detentions, cases of molestation, cruelty, human degradation, wrong use of firearms, lack of forensic technologies etc, there is need to address this issue effectively.

The challenges facing the Nigerian Police Force has a trickle-down effect on the effectiveness of the other aspects of the Criminal Justice sector when we take into cognizance the pile of cases awaiting trial due to inconclusive investigations or persons in remand custody awaiting trial for same reason and the Prison congestion issue. Today the civil society is skeptical of the statutory responsibility of the Force and this has further contributed to the heightened civil unrest predominant in several parts of the country.

This training manual is therefore designed to compliment effort aimed at equipping members of the Nigerian Police Force on basic Human Rights principles.

MODULE 1

Introduction on Policing and The Nigerian Police Force

Lesson Objective:

To sensitize the trainees on the concept of policing and provide an overview of the Nigerian Police Force as well as the link between these and human right observance

Expected Outcome:

It is expected that the trainees at the end of the lecture will be able to explain the duties of police, understand the link between human rights principles and discharge of police duties.

1.1 CONCEPT OF POLICING:

The origin of the word POLICE is derived from the Greek word 'POLIS' which means part of none ecclesiastical administration having to do with safety, health and order of the state. The modern definition of the word police denotes a Department of government responsible for the

preservation of law and order, detection of crime and enforcement of law. A Policeman/Officer could be referred to as any person (male or female) recognized by the law establishing the Police Force and authorized by same constitutional pronouncement to function as a law enforcement agent. It should be noted that the statutory responsibilities of Police is strictly guided by the United Nations Code of Conduct for Law enforcement Officials. This law clearly spells out the statutory duty of a Policeman/Officer irrespective of position or rank.

1.2 BRIEF HISTORY OF THE NIGERIA POLICE FORCE

With the colonization of the territory now known as Nigeria, the colonial masters needed an arm that will aid in suppressing and controlling the people. This led to the formation of the Constabulary which metamorphosed into the Nigerian Police Force. This culture of oppression and suppression has remained a major part of the problem of the modern day Nigerian Police Force.

Prior to the Nigerian civil war, the Police was formed along regional lines, the Western Region had their own Police Force under the control and supervision of the premier, which the Northern Region had same except for the East who was largely dependent on the Federal Police. Following the end of the civil war the Regional Police was abolished and a unified central police put in place covering the whole country was put in place. The aim of which was to foster unity in a country just rising out of the

ashes of war. It was also a tool designed to foster peaceful co-existence among citizens of the Federal Republic of Nigeria as well as harmony within the force itself

Section 214 (1) 1999 Constitution of the Federal Republic of Nigeria (CFRN) established a single police force and prohibited the establishment of any other police force in Nigeria.

1.3 BASIC DUTIES OF THE NIGERIA POLICE FORCE

Section 4 of the Police Act stipulates the basic duties of a Police Officer to include:

- Prevention and Detection of Crime;
- Apprehension of offenders;
- Preservation of law and order;
- Protection of life and Property
- Due enforcement of all laws and regulations
- Military duties within and outside Nigeria.

1.4. POLICE UNIFORM & WEAPONS:

The police uniform and firearms bestows authority and power on the police officer. It is therefore imperative that in order to avoid abuse of this power and authority, the Police must adhere to International, Regional and National laws governing their operations.

Module 1 Exercises:

1. List the basic duties of a police officer and assess if these are achieved, give reasons for your answers?
2. How can the duties stated above be supported and/or enhanced?
3. How does wearing police uniform make you feel?
4. When you are with your police rifle or other authorized weapons what feeling do you have? What thoughts come to your mind?
5. Do you think that human rights standards control the police on the abuse of their powers? Explain clearly your position on this.
6. Do human rights principles promote effective policing? Give reasons for your answers?

MODULE 2

Introduction to Human Rights

Lesson Objective:

To sensitize the trainees on the definition, source, characteristics and types of human rights.

Expected Outcome:

It is expected that the trainees at the end of the lecture will be able to define the concept of human rights and describe the history, source, types and characteristics of human right principles.

2.1. Definition of Human Rights:

'Human rights are the rights or claims which every human being has and/or is entitled to enjoy. This consists of the conditions which make us human and allow us to use and exercise our natural abilities and to satisfy our biological and other needs. They also consist of the fundamental principles that prescribe and guide how individuals should be treated, in any condition. Human rights have a universal

imperative. The essence of human rights is that they apply to every human being whether man, woman or child no matter the skin colour, status or origin. Human rights also cover various situations and areas of human relationships. Human rights also must be guaranteed and protected because of the danger, ease and regularity of their being violated. To ensure the protection of human rights, a lot has been done at the international and national levels in formulating standard principles of human rights and in setting up mechanisms for their enforcement. These have been documented and presented in the forms of international frameworks or instruments such as declarations, conventions, covenants, treaties and national constitutions. In no area is the protection of human rights more crucial than in the area of the administration of justice and law enforcement. Administration of justice and law enforcement carry with them the element of force, which is often accompanied with, or easily degenerates into violations of human rights. International standards have been set for the protection of human rights in this area. These standards safeguards against tyranny, oppression and impunity and checks on those who exercise power'.

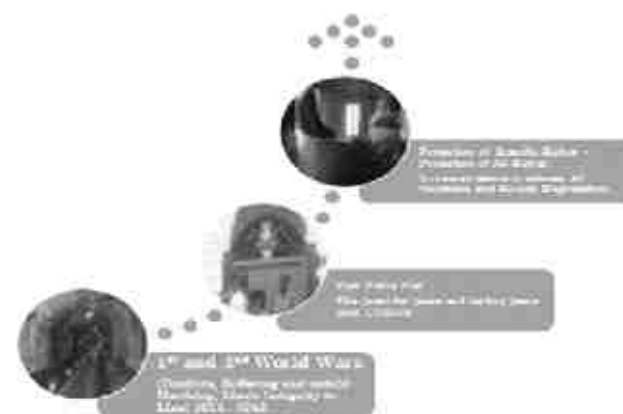
(A Reference Book on the Administration of Justice: A Compilation of United Nations Human Rights Instruments, PRAWA, 1999 at page v.)

What is human rights?

- Human rights refer to the "basic rights and freedoms to which all humans are entitled";
- Rights to which people are entitled simply because they are human beings, regardless of their nationality, race, ethnicity, gender, or religion;
- These are the rights that every human being automatically entitles to at birth. They cannot be denied because of the colour of one's skin, religion, age or other personal factors. Central to the concept of human rights is the protection of human dignity.

2.2. HISTORY OF HUMAN RIGHTS

THE HISTORY OF HUMAN RIGHTS PROTECTION



Impact of first and second World Wars and its effect on the attitude of governments and peoples world-wide on negative impact of wars and conflicts (Post 1945)

The quest for standard norms of human behaviour to protect human dignity and sanctity of life (The Introduction of the Universal Declaration of Human Rights, 1948).

Introduction of more specific standards relating to offenders/prisoners etc. The 1st United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1955/6 (Outcome: The United Nations Standard Minimum Rules for the Treatment of Prisoners, UNSMR)

2.3. CHARACTERISTICS OF HUMAN RIGHTS:

These include the following:

- I. NATURAL: This implies that as human beings we are born with a right. It is a gift embedded in everyone as long as he is recognised as a human being.
- II. UNIVERSAL: Human Rights are globally accepted principle that governs all humans as they interact with one another anywhere in the world.
- III. INALIENABLE: This means that Human Rights are

absolute and cannot be denied or forfeited.

IV. INDIVISIBLE: This simply means that it cannot be separated / divided.

V. INTERDEPENDENCE: This implies that every aspect of the rights expressed is mutually link to another right and each right tend to support another.

VI. INTERRELATED: This implies that every aspect of Human Rights are consistently interwoven, connected with other rights.

Thus, they are:

- Internationally guaranteed
- Legally protected
- Focused on the dignity of the human beings
- Protective of individuals and groups
- Obligatory to states and state actors
- Not able to be waived or taken away
- Equal and interdependent

On a general note the characteristics of Human Rights highlights the strong hold these rights has on its benefactors as well as its enforcers. As it stands an attempt to bridge one aspect leads to the violation of another and so on and so forth. It has been structurally designed to protect and prevent any form of abuse towards the human person and equally structured to sanction abusers in accordance with the law.

2.4. TYPES AND EVOLUTION OF HUMAN RIGHTS

The development of these rights can be classified as generational as they were introduced in phases. For example:

First generation rights:

These relate to civil and political rights, and they include rights such as:

- Freedom of speech,
- Freedom of movement
- Right to a fair trial
- Freedom of religion
- Freedom of association
- Freedom from arbitrary arrest and detention
- Freedom from torture, cruel, inhuman and degrading treatment
- Right to life
- Etc.

These rights were first enshrined at the global level in 1948 through the Universal Declaration of Human Rights and can be found in Chapter 4 of the constitution of the Federal Republic of Nigeria 1999 or (as amended) 2001. Central to all these is the protection of the dignity of the person.

Reference: See articles 1-20 of the Universal Declaration of Human Rights (UDHR) and Chapter 4 of the Constitution of

the Federal Republic of Nigeria 1999 or 2001 (as amended).

• Second Generation rights:

These relate to social, economic, and cultural rights. These include the following:

- Right to be employed
- Rights to housing
- Right to health care
- Right to social security and unemployment benefits.
- Right to Education Etc.

Reference: Articles 22 to 27 of the Universal Declaration, and the International Covenant on Economic, Social, and Cultural Rights and it is also covered under chapter 2 of the constitution (Fundamental objectives and directives principles of state policy)

• Third Generation rights:

These include rights such as:

- Right to self-determination
- Right to natural resources
- Right to participation in cultural heritage
- Rights to intergenerational equity and sustainability etc.

2.5. SOURCES OF HUMAN RIGHTS

Where do human rights principles come from?

They are derived primarily from 2 principal sources: customary international law and treaty law.

a. Customary international law:

It is international law that develops through the general and consistent practice of State and followed by a sense of legal obligation.

b. Treaty law:

It includes laws set out in the many international agreements developed, signed and ratified by States. Some of these treaties cover whole sets of rights – such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Some focus on particular types of violations for example Convention against torture (CAT), United Nations Convention Against Torture, Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT), Optional Protocol to the Convention Against Torture, Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT), International Convention on the Elimination of all forms of Racial Discrimination (ICERD); Some focus on particular

groups of people for instance Convention on the Rights of the Child (CRC), Convention on the Elimination of all forms of Violence against Women (CEDAW).

Module 2 Exercises:

1. **In your view, do you think that Human Rights is a good concept?**
2. **List ways that adopting human rights promotes peace and conflict resolution**
3. **Can you think of ways you can use your knowledge of the concept of human rights to facilitate peace in your community or work place?**
4. **What are your views on the adaptability or universal application of human rights?**
5. **Identify 2 rights each that are protected under first, second and third generational rights and discuss ways you can promote the observance of these.**

MODULE 3

Why protect the rights of detainees and prisoners?

Lesson Objective:

To sensitise the trainees on the rationale for human rights promotion and protect especially as it relates to detainees and prisoners.

Expected Outcome:

It is expected that the trainees at the end of the lecture will be able to discuss the reasons/rationale for the promotion and protection of the rights of detainees and prisoners.

One may ask, why do we need to protect the rights of prisoners and detainees? Our justification lie in the following:

3.1. THE USE OF POWER & THE NEED TOPREVENT ABUSE OF SUCH POWERS

It is said that power corrupts and absolute power corrupts absolutely. The police, judges/magistrates and prison

officer weild power by virtual of their duties. Power to arrest, detain, kill, determine when a detainee/prisoner eats, sleeps, baths, comes out of their cell, sees a doctor/nurse, receives visitors amongst others. This power is liable to abuse and misuse and thus the need to control, guard and monitor how those empowered to exercise these powers use them.

3.2. THE 'CLOSED WALLS':

Police cells, prisons and other detention centres are shut out of the common view of the public and access is restrictive. It is important that mechanism are put in place to ensure that those behind the prison walls are also protected from any violations.

3.3. THE 'JUST DESERT':

Some may argue that for any one that commits crime, the person must be ready to face the consequences of such acts. Does this apply to all persons in prisons? There are people who are in prison but who are innocent of the offences they are charged, convicted, or sentenced for. There are also minor offenders who need not be incarcerated in prison. Certainly, there are those who are serious offenders who are in prison, who though may be said to deserve their fate in prison but need to be treated in a humane, just and effective manner to ensure their rehabilitation, reformation and consequent reduction or prevention of future offending behaviour upon their release from prison.

3.4. THE CERTAINTY OF RE-ENTRY (PROTECTING THE SOCIETY):

Since most prisoners/detainee will someday come back into the society, we need to be concerned how they are treated whilst in prison/detention to ensure their effective re-entry (rehabilitation, resettlement and reintegration) back into the society as well as community safety.

3.5. HUMAN DIGNITY AND SANTITY OF LIFE ARGUMENT:

There is a moral point on the need to protect the life, dignity and sanctity of life for every human being irrespective of gender, class, colour, religion or age.

Human rights and rule of law provides a good framework to guide the treatment of persons including prisoners and detainees in accordance with the above ideals.

3.6. PROMOTION OF RULE OF LAW AND EFFICIENCY OF SERVICE DELIVERY:

This provides a good framework for the promotion of rule of law. This ensures that the right thing done while facilitating greater efficiency and delivery of service amongst law enforcement agents and other related agencies.

THE RATIONALE



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Module 3 Exercises:

Do you agree with the above rationale given under the following?

1. **The Use of Power & the Need to prevent abuse of such power**
2. **The 'Closed Walls'**
3. **The 'Just Dessert'**
4. **The certainty of Re-entry**
5. **Human Dignity and Sanctity of Life Argument**
6. **Promoting Rule of Law and Efficiency in Service Delivery**

Give reasons for your answer(s).

MODULE 4

Overview of human rights instruments

Training Objective:

To sensitise the trainees on key Human Rights Instruments relevant to the protection of the rights of persons especially detainees and prisoners as well as the importance of these and the mechanisms aimed at ensuring its observance.

Expected Outcome:

It is expected that the trainees at the end of the lecture will be able to list relevant instruments aimed at protecting the rights of detainees and prisoners.

4.1 THE FRAMEWORK:

There are legal frameworks guiding the treatment of persons by the police, prisons and other law enforcement agencies/detention facilities. These relates to the laws and legal principles guiding the protection of the rights of suspects, detainees and prisoners. These include the

following:

a. At the International Level:

It is important to note the context which ushered in the emergence of legal and human rights standards. Following the aftermath of the second world war in 1945, the government and peoples of various nations saw indeed the futility and terrible effects of wars and thus began to shift their desire towards avoiding future waste of human and material resources through wars. There was quest for a common platform to facilitate resolution of conflicts between nations. Developing common framework of principles, standards and laws became imperative. To this end, in 1948, the United Nations Declaration of Human Rights (UDHR) was birthed. This formed the basis for subsequent standards reflecting specific concerns – thus the UDHR was like a 'forerunner'. To better appreciate the above stated historical context, it is worth re-echoing here the preamble to the UDHR:

'Whereas recognition of the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

*Whereas disregard and contempt for human rights have resulted in barbarous acts, which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people
Whereas it is essential, if man is not to be compelled to have*

recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the poorest people of the United Nations have in the Charter reaffirmed their faith in the equal rights of man and women and have determined to promote social progress and better standards of life in larger freedom. Whereas Member states have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, The General Assembly Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect of these rights and freedoms and by progressive measures national and international to secure their observance, both among the peoples of Members States themselves and among the peoples of the jurisdiction.'

Articles 3, 5, 7, 8, 9, 10, 11, 25 and 29(2) of the UDHR is worth noting. These relates to the right to life, liberty and security of person; freedom from torture, inhuman or degrading treatment or punishment; equal protection before the law; right to an effective remedy by a competent national tribunal for acts violating the fundamental rights granted to him by the constitution or by law; freedom from arbitrary arrest, detention or exile; access to fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and any criminal charge against him; right to be presumed innocent until proved guilty according to law in a public trial with all guarantees necessary for ones defense; freedom from of being held guilty of any penal offence on account of any act or omission which did not constitute a penal offence under national law at the time when it was committed or have heavier penalty than applicable at the time the offence was committed; right to adequate living standard of health and well being for himself and his family including food, clothing, housing, medical care and necessary social services etc; and rights to be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just requirements of morality, public order and the general welfare in a democratic society respectively.

It was not until 1955/56 did we see the emergence of

specific Rules/Standards with respect to offenders/prisoners. This came in the form of the United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMR) and this was an outcome of the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The UNSMR covers the following scope: Registration of Prisoners (Rule 7); Separation of categories of prisoners (Rule 8); Accommodation (Rules 9, 10, 11, 12, 13, 14, 15, 16); Clothing & Bedding (Rules 17, 19, 18); Food (Rule 20); Exercise & Sport (Rule 21); Medical Services (Rules 22, 23, 24, 25, 26); Discipline & Punishment (Rules 27, 28, 29, 30, 31, 32, 33, 34); Information to and Complaints by Prisoners (Rules 35, 36); Contact with Outside World (Rules 37, 38, 39); Books (Rule 40); Religion (Rules 41, 42); Retention of Prisoners' Property (Rule 43); Notification of Death, Illness, Transfer etc Rules 44, 45); Institutional Personnel (Rule 46, 47, 48, 50, 51, 52, 53, 54); Inspection (Rule 55); Special Categories of Prisoners (Prisoners Under Sentence) (Rules 56, 57, 58, 59, 60, 61, 62, 63, 64); Treatment (Rules 65, 66); Classification and Individualization (Rules 67, 68, 69); Privileges (Rule 70); Work (Rules 71, 72, 73, 74, 75, 76); Education and Recreation (Rules 77, 78); Social Relations and Aftercare (Rules 79, 80, 81); Insane and Mentally Abnormal Prisoners (Rule 82, 83); Prisoners Under Arrest or Awaiting Trial (Rule 84, 85, 86, 87, 88, 89, 90, 91, 92, 93); Civil Prisoners (Rule 94); and Persons Arrested or Detained Without Charge (Rule 95).

These provides for the respect of the rights of prisoners as

it relates to the above subject areas. For example on mentally ill prisoners, Rule 82 states thus:

1. *'Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institution as soon as possible.'*
2. *'Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management'*
3. *'During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.'*
4. *'The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.'*

Rule 83 states that:

'It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.'

On Inspection, Rule 55 states that :

'There shall be a regular inspection of penal institutions and

services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.'

On Institutional Personnel and with respect to the use of force, Rule 54 (1) states that:

'Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defense or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.'

On Prisoners under Arrest or Awaiting Trial, Rule 93 has this to say:

'For the purposes of his defense, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defense and to prepare and hand to him confidential instructions. For these purposes, he shall, if he so desires, be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official'.

In discussing the UNSMR, we need to address questions relating to the universal applicability and adaptability of

the UNSMR. The issue of applicability of the UNSMR raises questions such as the following: How can the same standards of treatment of prisoners that apply in the developed countries also apply in developing countries? How can standards that apply in a prison located in a cosmopolitan town also apply to a prison located in a rural area? How can an old prison have same standard with a newly constructed prison? On the other hand, the issue of adaptability of the UNSMR raises questions such as the following: Is there in-built cultural sensitivity to facilitate the application of the UNSMR? Is there some flexibility in adapting the rules given to varying social, religious and cultural peculiarities/context of a given prison institution? Are all the activities and issues relating to the treatment of prisoners covered within the UNSMR? What can be done in cases where there are no standards/guidelines from the UNSMR relating to a particular issue?

It is important to note that the notion of 'Minimum Standards' reflected in the United Nations Standard Minimum Rule for the Treatment of Prisoners relates to the very basic minimum which no nation should operate below these.

Beyond the Universal Declaration for Human Rights (UDHR) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMR), there are several other international instrument aimed at encouraging good practice and respect of the rights of prisoners. These include the following:

INSTRUMENTS RELATING TO PRISONS AND DETENTION CENTRES

- Body of Principles for the Protection of Persons Under Any Form of Detention or Imprisonment
- Principles of Medical Ethics relevant to the role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
- United Nations Principles on the Treatment of Prisoners
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Safeguards Guaranteeing Protection of the Rights of Those Facing Death Penalty;
- UN Standard Minimum Rules for the Treatment of Women Prisoners (The Bangkok Rules)

INSTRUMENT RELATING TO JUVENILE JUSTICE

- United Nations Guidelines for the Prevention of Juvenile Delinquency
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty

INSTRUMENTS RELATING TO OTHER ASPECT OF ADMINISTRATION OF JUSTICE

- Basic Principles on the Independence of the Judiciary
- Basic Principles on the Role of Lawyers
- Guidelines on the Role of Prosecutors
- Declarations of Basic Principles of Justice for Victims of Crime and Abuse
- United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules)
- Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions
- Code of Conduct for Law Enforcement Officials
- Basic Principles in the Use of Force and Firearms by Law Enforcement Officials

b. At the Regional Level:

The African Charter on Human and Peoples' Rights contains several relevant provisions to be considered in relation to promotion of prisoners rights. Some of these includes the following:

Article 5:

'Every individual shall have the right to the respect of the dignity inherent in a human person and to the recognition of his legal status. All forms of exploitation and degradation of men particularly slavery, slave trade, torture, cruel, inhuman and degrading treatment or punishment shall be prohibited.'

Article 6:

'Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.'

Article 7:

(1). ' Every individual shall have the right to have his cause heard. This comprises:

- a. The rights to an appeal to competent national organs against acts violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;*
- b. The right to be presumed innocent until proved guilty by a competent court or tribunal;*

- c. The right to defense, including the right to be defended by counsel of his choice;*
 - d. The right to be tried within a reasonable time by an impartial court or tribunal'.*
- (2). 'No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender'.*

It is also important to note that the African Commission on Human and Peoples' Rights whose mandate is the promotion and protection of human rights as enshrined in the African Charter will only deal with matter submitted to it after all local remedies have been exhausted or it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged (Article 50).

c. At the National Level:

The Nigerian, Constitution is worth examining. There are also some subsidiary legislations such as the Prison Act (CAP 366) and the Nigerian Prison Service Standing Order. The Child Rights Act of 2003 also contains relevant provision relating to young person's / juveniles and their treatment and processing within the criminal justice system.

It is important to mention that though Nigeria is a signatory to several international and regional conventions and treaties which impact on justice delivery or the creation of norms in aid of justice, these international instruments cannot become part of the Nigerian law unless the provision of the Constitution is met (Ohurogu, 2007)¹. Section 12(1) of the 1999 Constitution of the Federal Republic of Nigeria provides that no treaty between the Federation of any other country shall have the force of law except to the extent to which such treaty has been enacted into law by the National Assembly. This applies to all issues whether or not the issue is contained under the Exclusive Legislative List², though for issues which are not under the Exclusive Legislative List, there must be ratification by a majority of the Houses of Assembly of the State of the Federation before such Act will be enacted or presented to the President for Assent³.

Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria contains relevant provisions such as:

Section 35(1) *Every person shall be entitled to his personal liberty and no one shall be deprived of such liberty except in the cases and in accordance with a procedure permitted by law –*

- (a) *In Execution of the sentence or order of a court in respect of a criminal offence in which he has been found guilty;*

1. Ohurogu C (2007), 'Legislative Support for Justice Sector Reforms in Nigeria' In: Reforming for Justice: A Review of Justice Sector Reforms in Nigeria 1999 – 2007, Access to Justice: Lagos at page 233.

2. Section 12(2) of the 1999 Constitution

3. Section 12(3) of the 1999 Constitution

- (b) *By reason of his failure to comply with the order of a court or in order to secure the fulfillment of any obligation upon him by law;*
- (c) *For the purpose of bringing him before a court in execution of the order of court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;*

Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence.

35(4) *Any person who is arrested or detained in accordance with subsection 1(c) of this section shall be brought before a court of law within a reasonable time, and tried within a period of–*

- (a) *Two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail; or*
- (b) *Three months from the date of his arrest in the case of a person who has been released on bail, he shall (without prejudice to any further proceeding that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for*

trial at a latter date

- 35(5) *In subsection (4) of this section the expression 'a reasonable time' means –*
- (a) *In the case of an arrest or detention in any place where there is a court of a competent jurisdiction within a radius of forty kilometers, a period of one day; and*
 - (b) *In any case, a period of two days or such longer period as in the circumstances may be considered by the court to be reasonable*
- 35(6) *Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person and in this subsection 'appropriate authority or person' means an authority or persons specified by law.*
- 35(7) *Nothing in this section shall be construed –*
- (a). *In relation to sub section (4) of this section, as applying in the case of a person arrested or detained upon reasonable suspicion of having committed a capital offence;*
- 36(1) *In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such a manner as to secure its independence and impartiality.*
- 36(5) *Every person who is charged with a criminal offence shall be presumed innocent until he is proved guilty*

Provided that nothing in this section shall invalidate any law by reason upon any such person the burden of providing particular facts.

- 35(6) *Every person who is charged with a criminal offence shall be entitled to–*
- (a) *Be informed in the language he understands and in detail of the nature of the offence;*
 - (b) *Be given time and facilities for the preparation of his defense;*
 - © *Defend himself in person or by legal practitioners of his own choice;*
 - (d) *Examine in person or by his legal practitioners, the witnesses called by the prosecution before the court or tribunal and obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court or tribunal on the same conditions as those applying to the witnesses called by the prosecution; and*
 - (e) *Have without payment, the assistance of an interpreter if he cannot understand the language used at the trial of the offence.*
- 36(8) *No person shall be held to be guilty of a criminal offence on account of any act or omission that did not at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.*

Module 4 Exercises:

1. List the various human rights instrument developed at the:
 - a. International level
 - b. Regional (continental) level; and
 - c. National level
2. Are these principles adaptable in different cultures and settings? Are they universally applicable?
3. Are these principles complied with in your institution? Give reasons for your answer.

RESPONSE: The notion of 'Minimum Standards' relates to the basic minimum upon which none should aspire to go below.

MODULE 5

Specific focus on The United Nations code of conduct for law enforcement officials

Training Objective:

To sensitize the trainees on provisions of the United Nations Code of Conduct for Law Enforcement Officials and encourage its compliance.

Expected Outcome:

It is expected that the trainees at the end of the lecture will be able to know and discuss the provisions of the United Nations Code of Conduct for Law Enforcement Officials.

5.1. SOME HIGHLIGHTS OF THE UNITED NATIONS CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

It is not uncommon to see established agencies of government go out of hand in the discharge of their functional responsibilities; thus the enactment of code of

conduct. It was in realization of this fact that the United Nations, through its General Assembly Resolution 34/169 of 17th December, 1979, came up with certain code of conduct, to guide and regulate the activities of the Police and other law enforcement agencies. This code of conduct stipulates as follows:

Article 1:

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with high degree of responsibility required of their profession.

The law equally states that, service to community is intended to include particularly the rendition of services of assistance to members of the community who by virtue of personal, economic, social or other emergencies are in need of immediate aid. (e.g. displaced victims, disaster stricken victims, physically challenged persons, minors and even women).

**Protection of the community and persons against
Illegal acts**

Article 2:

This article states that in the performance of their duties, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons. This particular Article is concerned with ensuring that law enforcement officials respect and protects Human Rights in the line of duty. It specifically requests for humane practice devoid of any form of torture, cruelty, inhuman

degradation while enforcing the law.

**Respect and protection of human dignity and
upholding of human rights principles is keys to
the performance of law enforcement duties.**

Article 3:

Article 3 stipulates that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. The implication here is that, the use of force can never and should never be the first option. In fact, this provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorised to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

**The use of force should never be the first option
... it should only be in exceptional circumstances.**

Article 5

Prohibits Torture

All persons in custody should be protected.

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and



Module 5 Exercises:

1. List the various human rights instrument and provisions relevant to the police officer in terms of the following
 - a. Arrest
 - b. Detention
 - c. Treatment of Suspects
 - d. Interrogation of Suspects
2. How applicable are the above stated human rights instruments in the Nigerian Police Force? Give Reasons for your answer.
3. List the provision of the code of conduct for law enforcement officials that you find difficult to comply with, explain the reasons for this.
4. Many have reported that the Nigerian Police Force and other law enforcement agencies systematically violates human rights Principles, what is your views on this and how can this trend of reporting change?

MODULE 6

Specific focus on instruments in relation to torture, cruel, inhuman and degrading treatment or punishment

Training Objective:

To sensitize the trainees on provisions of the United Nations Convention Against Torture, Cruel, Inhuman and Degrading Treatment and Punishment and other related instruments/protocols encourage compliance.

Expected Outcome:

It is expected that the trainees at the end of the lecture will be able to know and discuss the provisions of the United Nations Convention Against Torture, Cruel, Inhuman and Degrading Treatment and Punishment and other related conventions/protocols, both at international, regional and national levels.

6.1. DEFINITION OF TORTURE

The Definition of Torture is derived from Article 1 of the

'Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions'

From the definition above there are key issues to bear in mind namely:

- The nature of the act
- The circumstances surrounding the act
- The person inflicting the act.

a. On the nature of the act:

This relates to both physical and mental pain and suffering and thus, covers both physical and psychological torture as well as physical and psychological effects/consequences. Note: Art 16 extends this to other acts of cruel, inhuman and degrading treatment or punishment. There is also the notion of 'severe pain or suffering'. The issue here is what determines the level of severity and who determines this? It is important to note that the subjective feeling of pain and suffering may differ

from one person or the other depending on their varying degrees of pain threshold. Also, severity of the act may or may not be directly linked to the severity of the feeling. This may be influenced by additional factors such as the person's pain threshold, past experiences, circumstances surrounding the act etc.

b. Circumstances surrounding the act:

From the wordings of Art 1 of UNCAT, the act must be done for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind. Thus any similar acts carried out under other circumstances are not covered by this definition.

c. The Person inflicting the act:

The pain or suffering must be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Thus, this excludes any similar acts which occur within the private sphere. i.e. an act of 'torture' which inflicts 'severe physical or mental pain or suffering' carried out by someone's spouse will not be defined as torture under Art 1 of UNCAT even if the said spouse is a police officer or any other public officer.

6.2. RECOMMENDED INTERVENTION STRATEGIES:

There are various strategies aimed at promoting the prevention of torture, cruel, inhuman and degrading

treatment and punishment as reflected in the United Nations Convention Against Torture, Cruel, Inhuman and Degrading Treatment and Punishment (UNCAT) as well as the African Commission on Human and Peoples' Rights Guide – i.e. The Roben Island Guideline for the Prohibition of Torture, Cruel, Inhuman and Degrading Treatment and Punishment (The RIG). These include the following:

<p>1. Criminalization of Torture: Article 4 of UNCAT provides that each state Party shall criminalize torture with appropriate penalties.</p> <p>2. Training of relevant officers on the Prohibition against Torture (Article 10) states that: 'Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.</p> <p>There are also provisions relating to review of the process or interrogation, arrangement of custody, treatment of persons on arrest and detention; redress for victims of torture; protection for complainant/witnesses, etc.</p>	<p>The Strategy</p>
<p>3. Art 11 Review of Interrogation Rules: 'Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any case of torture'.</p> <p>4. Art 15 provides that evidence collected through torture should be excluded from evidence. 'Each State Party shall ensure that any statement which is established to have been made as a result of Torture shall not be involved as evidence , except against a person accused of torture as evidence that the statement was made'.</p>	<p>Interrogation Rules and status of Statement collected through torture</p>

<p>5. Prompt and Impartial Investigation - Art 12: Each State Part shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.</p> <p>6. Protection of complainant and witnesses : Art 13 Provides that 'Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given'.</p>	<p>Prompt and Impartial Investigation & Protection of complainant and witnesses-</p>
<p>7. Providing redress for victims Art 14 states that: 'Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible..'</p>	<p>Redress for victims</p>

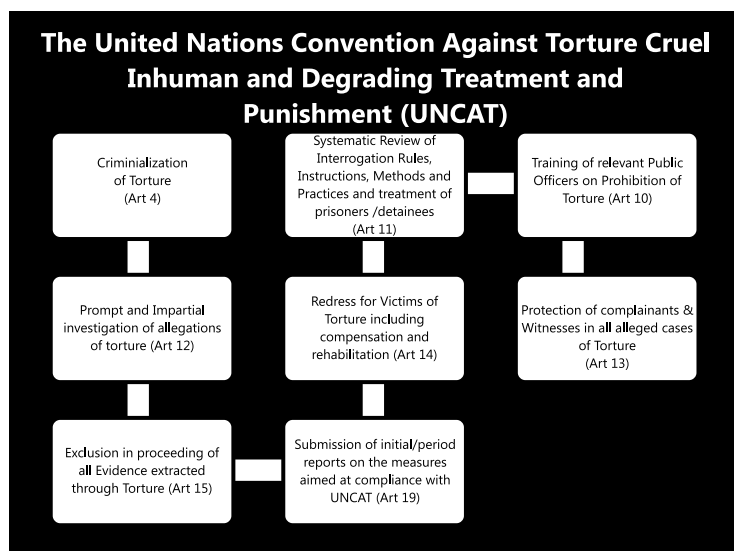
The UNCAT also provides for the establishment of the UN Committee Against Torture (See Art 17 (1), 20 etc).

Art 19 states that:

'The State Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit Supplementary reports every four year on any new measures taken and such other reports as the Committee may request'.

The need to submit initial and periodic reports to the Committee

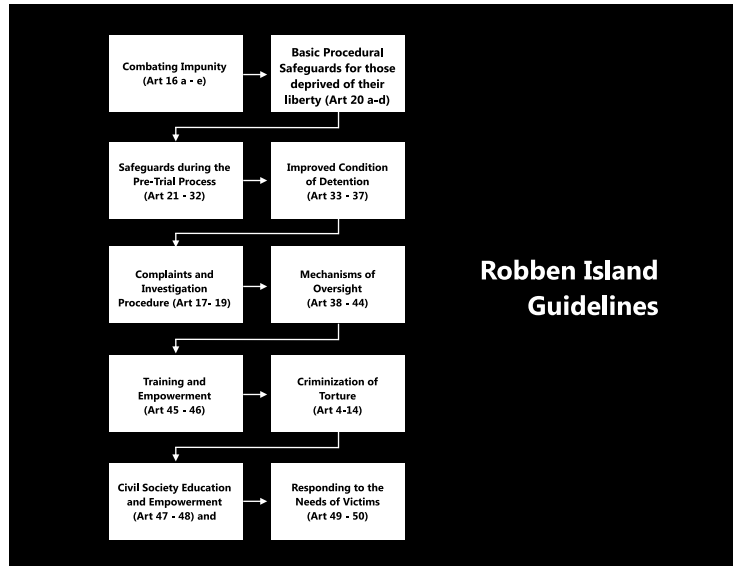
See the table below for the summary of these strategies as provided in the United Nations Convention Against Torture, Cruel, Inhuman and Degrading Treatment and Punishment:



At the regional level, the African Commission on Human and Peoples' Rights has developed the Robin Island Guide (RIG) aimed at prohibition of torture, cruel, inhuman and degrading treatment. The RIG provides for the following:

- Criminalization of Torture (Art 4 – 14)
- Combating Impunity (Art 16 a – e)
- Complaints and Investigation Procedure (Art 17-19)
- Basic Procedural Safeguards for those deprived of their liberty (Art 20 a – d)
- Safeguards during the Pre-Trial Process (Art 21 – 32)
- Improved Conditions of Detention (Art 33-37)
- Mechanisms of Oversight (Art 38 – 44)
- Training and Empowerment (Art 45 – 46)
- Civil Society Education and Empowerment (Art 47-48) and
- Responding to the Needs of Victims (Art 49 – 50)

See below for a summary of the provisions of RIG:



Module 6 Exercises:

Discuss each of the above provisions and assess the extent they can help in the execution of your police duties?

MODULE 7

Effects of Non-observance of Human Rights Principles:

Training Objective:

To sensitize the trainees on the effects of non-compliance/non-observance of human rights standards and the need for its compliance.

Expected Outcome:

It is expected that the trainees at the end of the lecture will be able to understand the need for the observance of human rights standards/principles.

7.1 LEGAL RELATED EFFECTS

Writing on the issue of torture and investigation practice, it was reported elsewhere that:

'Lacking the capacity to conduct proper criminal investigation, the NPF (Nigeria Police Force)

relies instead on torture to elicit 'confessions'. This practice is so common that many police stations have a person on staff who oversees the torture of detainees and a room set aside for the practice. The police use many forms of brutality, including sexual violence against detainees and suspects. Some former detainees report having been bound and suspended mid - air in painful positions and kicked and beaten with machetes, gun butts, boots, fists, electrical wires, animal hides, and other instruments. Others describe being shot in the leg or assaulted by police officers while in custody and suffering multiple fractures; being forced to perform impossibly painful calisthenics; and being raped.....In some instances, what begins as a routine case of roadside extortion by the police extends to unjustified detention, then the infliction of torture, and ends in extrajudicial execution (NOPRIN/OSJI, 2010: page 12).

The violation of this act equally explains why most vital cases are dismissed in court. It is important to note that once it is detected and established that the use of force was applied in investigation and interrogation of a suspect, Evidence Act provision provides the exclusion of evidence extracted through duress. This violation usually causes a twist in the original case as "Trial-within-Trial" is adopted to ascertain the possibility of the use of Torture or Force.

Other consequences of this include the following:

- Abuse of the pre-trial process
- Delay in completion of investigations/non-completion of investigations
- Extra-judicial killings
- High number of awaiting trial prisoners
- Court congestion
- Prison overcrowding
- Poor image of the Police Force
- Poor image of the country in the comity of nations
- Punishment of the innocent
- Poor management of the prisons and correctional regimes Etc.

7.2. THE SOCIO – ECONOMIC DIMENSION

It has been argued that many of those who suffer these abuses are the poor, vulnerable and the marginalized. The UN Special Rapporteur on Torture captured this correctly where he states that:

'Many people think that torture is primarily the fate of political and other 'high – ranking' prisoners. In reality, most of the victims of arbitrary detention, torture, and inhuman conditions are usually ordinary people who belong to the poorest and most disadvantaged sectors of society, including those belonging to the lowest classes, children, persons with disabilities and diseases, gays Drug addicts, aliens, and members of ethnic and religious

minorities or indigenous communities'.

Module 7 Exercises:

Debate (Group 1 & 2):

The non-observance of human rights principles affects the administration of justice more than its affects socio-economic indices.

MODULE 8

Oversight Mechanisms:

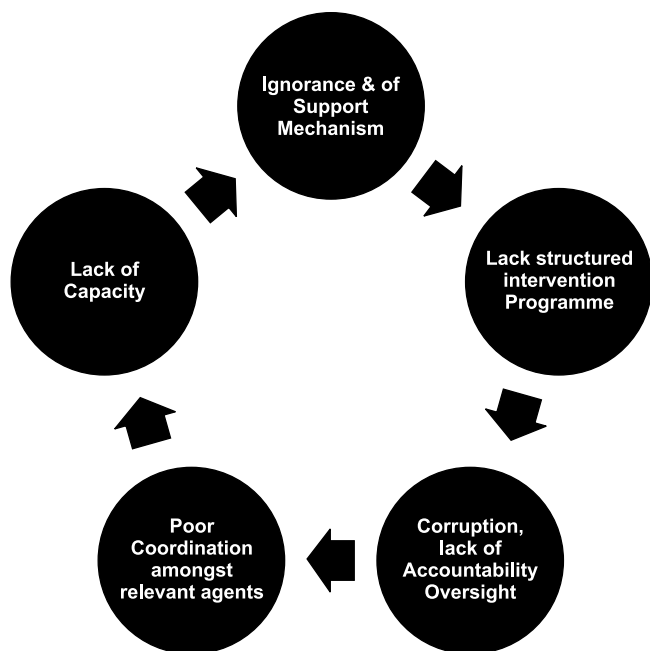
Training Objective:

To sensitize the trainees on Oversight Mechanisms and its role in promoting compliance/observance of human rights standards.

Expected Outcome:

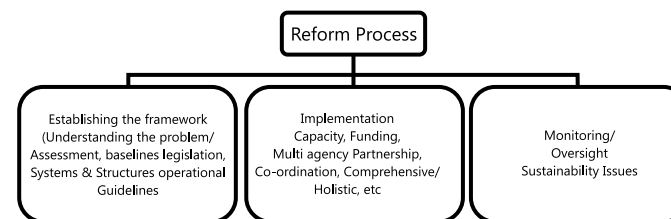
It is expected that the trainees at the end of the lecture will be able to describe various oversight mechanisms, their features and benefits.

8.1. SOME OF THE FEATURES OF THE JUSTICE SYSTEM AND FACTORS PROPELLING NON-COMPLIANCE WITH THE HUMAN RIGHTS STANDARDS:



The above diagram represents some of the issues that have been reported as bearing responsible for the non-compliance with human rights standards include the following interrelated factors: Lack of capacity, ignorance and lack of support mechanism, lack of structured intervention programmes, corruption and lack of accountability and oversight, and poor coordination amongst relevant agents.

8.2. UNDERSTANDING THE PROCESS

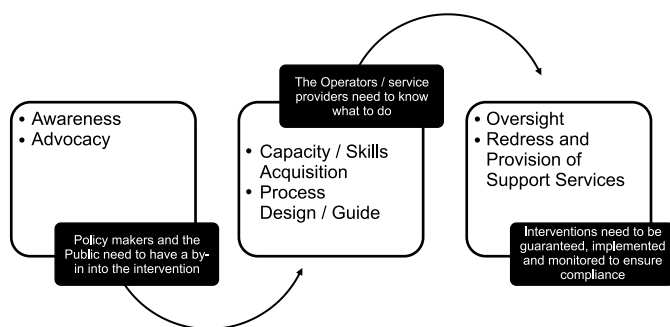


To provide a holistic reform process, the above three clusters must be put in place, namely:

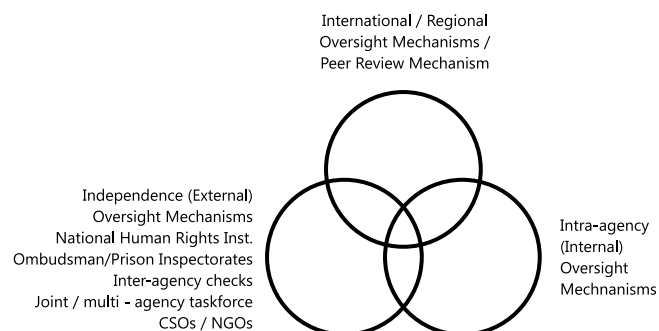
- The Enabling Framework (Legislations, Structures and Operating Guidelines, etc.)
- The Implementation Capacity (Such as Human Skills and Capacity, Funding, Partnership, Coordination etc.) and
- Opportunity for Monitoring and Oversight as well as ensuring sustainability of all the above.

Monitoring and oversight is very important. This will help observe the level of compliance and the factors that promote or hinder compliance as well as encourage compliance by all relevant actors. As can be seen in the diagram above, it will be ineffective to carry out any aspect of the above without a corresponding focus on the rest. For example, it does not make sense to have a law or policy without having the required human skill/capacity,

programme intervention(s) and funding to implement it and the monitoring and oversight component to assess



Oversight Mechanisms



oversight functions are as follows:

National level:

- National human rights institutions (such as the human rights commissions or an ombudsman);
- Parliament
- Civil Society Organizations such NGOs, Faith-Based Organizations, Professional Bodies (such as Nigerian Bar Association) and the Media
- Other relevant government agencies and services, including the Police, Court, Ministry of Justice, Legal Aid Council.

Regional Level:

Regional organizations have developed mechanisms to monitor human rights.

For example:

- The African Commission on Human and Peoples Rights (ACHPR),
- The European Court of Human Rights (ECHR)
- Inter-American Commission on Human Rights

see the next section , for the International Mechanisms and Person who can monitor at the International Level.

8.4 INTERNATIONAL OVERSIGHT MECHANISMS:

a. The Special Rapporteur Mechanisms:

The United Nations has the following Special Rapporteurs which perform oversight function in relation to police, prisons and other detention centres. Example these include the following:

- (i). The Special Rapporteur for Torture, Cruel,

NOTE: Nigeria Ratified the OPCAT on July 27, 2009. It has also established a Committee on Torture, however there are critical challenges in meeting the other stated requirements.



1. Establishment of NPMs:

Every Member State should designate or establish at least one year after the entry into force of OPCAT or its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level (Art 17)

2. Independence of the NPMs and its personnel. See Art 18(1)

**Optional Protocol
to the United
Nations
Convention
Against Torture,
Cruel, Inhuman
and Degrading
Treatment or
Punishment
(OPCAT)**

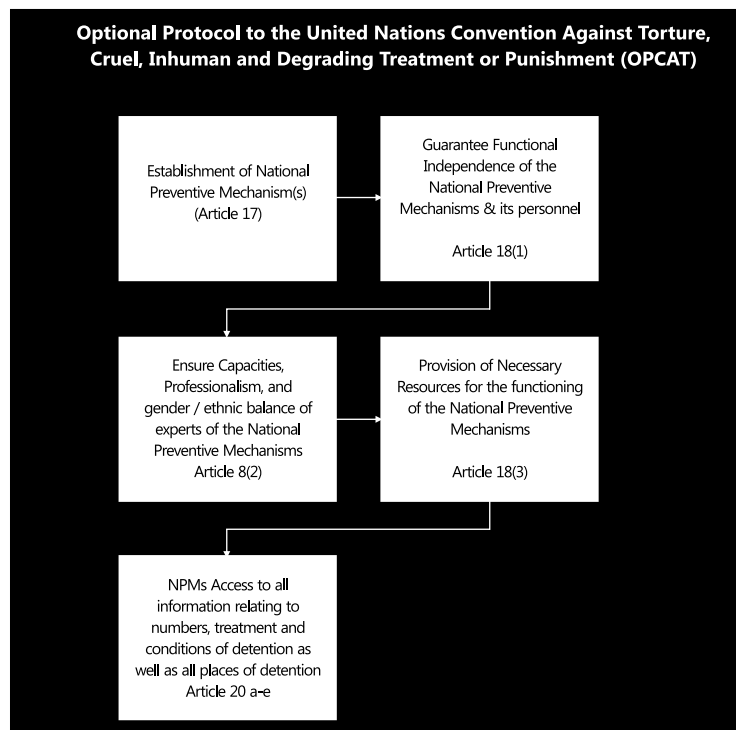
3. Capacities and professional knowledge (including gender and ethnic and minority balance) Art 18 (2)

4. Necessary Resourcing the NPMs - Art 18 (4)

5. Powers for the NPMs (Art 19 a - c; 20 a- f) this includes access to information, access to ALL places of detention, etc.

NOTE: Nigeria Ratified the OPCAT on July 27, 2009. It has also established a Committee on Torture. There are critical issues with the other requirements.

Conts...



8.5 REGIONAL MECHANISMS

African Commission on Human and Peoples' Rights (ACHPR) has the following mechanism:

a. The Special Rapporteur Mechanism:

It has a Special Rapporteur on Prison and Conditions of Detention in Africa who can undertake fact finding mission in any of the African Union (AU) member states.

b. The Committee Mechanism:

It has a Committee for the Prevention of Torture in Africa (CPTA) which carries out both promotional activities as well as fact finding missions to AU member states.

c. The Ordinary Session of the ACHPR:

Member states are expected to present their and submission of state reports state reports indicating level of compliance to the African Charter and other regional human rights instruments adopted by the AU during the ordinary sessions of the ACHPR. Here also, NGOs with observer status with the ACHPR are allowed to present their reports on the various thematic issues and highlight challenges confronted in the implementation of these in the respective member states. NGO's also provide shadow reports addressing the countries and issues raised or ought to be raised in the state reports.

8.6. NATIONAL MECHANISMS:

This is implemented through several mechanisms such as through:

- a. Commissions of Inquiry
- b. Activities of designated Government agencies such as the National Human Rights, Nigerian Legal Aid Council, Judiciary, Ministry of Justice, etc.
- c. Parliamentary Oversight
- d. Non-governmental Initiatives

Module 8 Exercises:

- 1. Are there any monitoring and oversight mechanisms currently existing in your station? Discuss your response in relation to whether this promotes or hinders compliance to human rights observance.**
- 2. What in your view are the steps that need to be taken to ensure effective monitoring and oversight activities for the Police and enhance observance of human rights principles?**
- 3. Between International, Regional and National Level Oversight Platforms, which do you think is more effective in ensuring compliance of the police towards human rights observance and recommend what needs to be done to strengthen the other levels?**

MODULE 9

Recommendations:

what in your view are important recommendation to be made / implemented to enhance the compliance of the police to international / regional human rights standards and relevant national legislation.

s/n	Participants suggestions	% of responses	Your Rating (Yes/No)
1	The interaction program should be integrated into police training and should be carried out on monthly basis	20.8%	
2	Government should upgrade police detention facilities	19.8%	
3	This program should also be taken to the general public (grassroots)	17.7%	
4	Need more data base equipment for information storage as to avoid loss of data	9.4%	
5	The program should also involve high rank police officers and others in similar position	9.4%	
6	The interactive session should be taken to all the police stations in Nigeria, including police colleges	6.3%	
7	Need to educate the police more on alternative to torture	4.2%	
8	Community police should be promoted and used to reduce and compliance to human right and community participation on prevention of civil rights	4.2%	
9	Police welfare packages should be increased as that will reduce police challenges and reduce torture	3.1%	
10	The amount of knowledge we have acquired will increase adherence to law and use of alternative to torture	3.1%	
11	Human rights organizations should work on bridging the gap between the police and public	2.1%	

Frequently asked Questions and Answers

Which of the human rights violations should the police be especially concerned about?

The police are the FIRST line of defense for human rights. They are the guardians of the law, including human rights. The community depend on the police to protect the full range of rights through the effective enforcement of the country's criminal laws.

Examples of human rights violations the police need to be vigilant about are;

- **Arbitrary arrest and detention;** deprivation of liberty without lawful reason or due process by an act of the government or its agent, or with their complicity, tolerance and acquiescence.
- **Enforced or involuntary disappearance;** detention, adoption, or other deprivation of liberty by the government or its agents or with their complicity, tolerance or acquiescence, where the fate or whereabouts

of the victim is not disclosed and custody is not confirmed

- **Torture;** any act committed with intent to cause severe pain or suffering, mental or physical for the purpose of; obtaining information or confession, as Punishment for a person suspected to have committed a crime, or Intimidation or coercion. No act is a greater denial of the inherent dignity of the individual than torture. Torture focuses the power of the state against a single defenseless individual. It aims to strip the individual of the very qualities on which human rights are based (see article 5 of UNDHHR and article 1 of UNCAT).

- **Extra judicial killing:**

This is the basic violation of the rights to life as it never lies on the police to take the life of any human being, be it a suspected "criminal" or any person in detention irrespective of the seriousness of the offence of which the individual is suspected of and evidence thereof. This responsibility has been placed squarely within laid down legal guidance on the court.

Do human rights undermine law and order?

There are legally recognized limitations to human rights in order to ensure maintenance of law and order.

These are necessary for the following reasons:

- To ensure respect for the rights and freedoms of others; and
- To meet the just requirements of morality, public order and general welfare in a democratic society.

Does concern for Human Rights hinder Police Work?

Some persons are of the view that in order to enforce the law, to capture the criminal and secure his or her conviction, it is necessary to “bend the law” a little. However, Police officers should be aware that violation of Human Rights by the Police only makes the task of law enforcement difficult and prone to ridicule. it also cause many to loose fate in the institution.

What are the effects of police human rights violations?

- They erode public confidence;
- They hamper effective prosecutions in court;
- They isolate the police from the community;
- They result in the guilty going free and the innocent being punished;
- They leave the victim of the crime without justice for his or her suffering;
- They force police agencies to be reactive rather than proactive in their approach to crime control and management;
- They bring agents and institutions of public

authority to disrepute.

How can respecting human rights help the police?

- Public confidence is built and community cooperation is fostered;
- Legal prosecutions are successful in court;
- A contribution is made to the peaceful resolution of conflicts and complaints
- An effective police service is one that serves as the first line of defense in the protection of human rights. Its members carry out their work in a way that does not rely on fear and raw power but instead on regard for the rule of law, honor and professionalism.

• Does Human Rights Observance Undermine the Law?

Human Rights do not undermine the law and order governing the society. It is but an instrument that strengthens the functional ability of the law as it operates in societies. In order to ensure that law and order is maintained, there are legally recognized limitations to Human Rights which are necessary for the following reasons:

- To ensure respect for the rights of freedom of others; and
- To meet the just requirements of morality, public order and general welfare in a democratic society.

In essence Human Rights operates under the ambit of the law and do not in any way undermine the law.

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Appendix 1

Pre And Post Test Questionnaire (evaluation Forms)

PRE-TEST QUESTIONNAIRE

Instruction:

The aim of this questionnaire is to collect information on your knowledge/awareness on issues of Human Rights, Torture and other cruel inhuman and degrading treatment in regards to policing. Please respond to the following questions/statements contained in this questionnaire as truthfully as you can. There are no right or wrong answers. In areas where the provided space is not enough, you can write on extra plain sheet.

Section 1: Bio Data

Name of Police Station: _____, Gender:

Male () Female ()

Position/Rank of Police Officer/Respondent:

No, of years in Police Service: _____

Age category: 18 – 24yrs () 25 – 34yrs () 35 – 49yrs ()

50yrs & above ()

Marital Status: Married () Single () Divorced ()

Separated () Widow/Widower ()

Section 2: Knowledge/Awareness of Human rights issues and Torture

1. Are you aware of any International/Regional/National Laws/Policies on Torture and Human Rights Issues?

Yes () No ()

- 1b. If yes, please list those laws/policies

.....
.....

2. Have you participated in any workshop/interactive session/Seminar or any formal or informal training that Torture and Human Rights Laws/Policies were discussed?

Yes () No () Don't Know ()

- 2b. If yes, please indicate:

- i. Year:, and Month you participation in the program:,
- ii. Venue::, In FCT, or (please specify State),
- iii. Name of Institution(s) that organized the program:

.....
.....

3. How would you rate the following attributes in the table below?

s/n	Item	Very high	High	Low	Very low
i	Your knowledge/understanding of International/Regional and National Human Right laws/policies				
ii	The capacity of an average police officer to investigate accused persons without the use of torture and human right abuse				
iii	Knowledge/awareness of alternative to torture as a means of investigation/prosecution of accused persons				
iv	Your support for the use of torture during investigation/prosecution of accused persons				
v	The implementation of international/regional/national Laws/Policies by the Nigeria Police				

Section 3: Prevalence of Torture and other Human Rights Abuses

4. How would you rate the following attributes in the table below?

s/n	Item	Very high	High	Low	Very low
i	Prevalence of Torture and Human Rights Abuses in your Police Station				
ii	Prevalence of Torture and Human Rights Abuses in Nigerian Police				
iii	Prevalence of Torture and other Human Rights Abuses on Police Officers by other Officers				

5. In your view, how do you think Offenders/Accused persons are being treated in Nigeria? Very well () Fair () Poor () Inhuman ()

6. What are your expectations from the interactive session/workshop?

.....
.....

POST-TEST QUESTIONNAIRE

Instruction:

The aim of this questionnaire is to collect information on your knowledge/awareness on issues of Human Rights, Torture and other degrading treatment in regards to policing.

Please respond to the following questions/statements contained in this questionnaire as truthfully as you can. There are no right or wrong answers. In areas where the provided space is not enough, you can write on extra plain sheet,

Section 1: Bio Data

Name of Police Station:

Gender: Male () Female ()

Position/Rank of Police Officer/Respondent:

.....

No. of years in Police Service:

Age category: 18 – 24yrs () 25 – 34yrs () 35 – 49yrs ()

50yrs & above ()

Marital Status: Married () Single () Divorced ()

Separated () Widow/Widower ()

Section 2: General workshop Organization, Implementation and other issues

1. In general how would you rate the workshop organization on the attributes below?

s/n	Item	Excellent	Good	Average	Poor	Very Poor
i	Methodology of the programme: balance between presentation and interactive sessions/discussion					
ii	Content of the Course					
iii	How comprehensive was the information you received during the course					
iv	How comprehensive was the information received before participating in the interactive session/workshop					

2. In general, how much of the Course/Interactive session is :

s/n	Item	Most	About half	Little	No answer
i	Value to you?				
ii	Relevant to You?				
iii	New to you?				
iv	Will be used by you?				

3. Did the interactive session meet your expectations?

Yes () No () Don't Know ()

- 3b. If yes, what are those expectations and how?

.....

.....

.....

4. What do you see as challenges that hinder the Police from the use of Alternative to Torture and respect for Human Rights in Nigeria

.....

.....

.....

5. Did you miss any subject(s) that should be included in the Course/Interactive session?
- Yes () No () Don't Know ()

5b. if yes, please list the subject(s).

.....
.....

4. Any other
Comments/Suggestions/Recommendations

.....
.....
.....

Appendix 2

THE GLOBAL CAMPAIGN FOR PRETRIAL JUSTICE

STATEMENT AT THE 49th SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS – BANJUL APRIL 2011

The decision to detain someone before he or she is found guilty of a crime, is one of the most draconian a State can make. The decision is made in an instant, but the results are long lasting, severe and adverse. The persons detained lose their liberty and may also lose their home, job, income, family and community ties.

Regional and international standards provide that pre-trial detention should be the exception rather than the rule – and the African Charter states in Article 6 that 'no one may be arbitrarily arrested or detained'. Yet in many African countries there is an automatic and arbitrary recourse to pre-trial detention and once arrested suspects spend months or even years in detention awaiting resolution of their case. The problem is of key concern in all countries

across the continent. For example according to available statistics, in Liberia, Mali, Niger, Mozambique and Burundi between 67 and 97 percent of the total prison population are in pre-trial detention and in over 20 countries across the region pre-trial detainees form over 50 percent of the prison population. In addition the majority of these detainees are accused of minor crimes. A 2011 UNODC study that covered 17 countries across the continent found that in 14 of the countries over 50 percent of detainees were charged with, or sentenced for, a minor crime, and in 7 countries this number comprised at least 75 percent.

Detaining large numbers of people pre-trial and for minor crimes significantly contributes to the problem of overcrowding in prisons, undermines the rule of law and has severe ramifications for socioeconomic development. The impacts reverberate far beyond the holding cells, impacting individuals, families, communities and the state.

Individuals are exposed to institutional violence, torture and infectious disease. They may lose their employment, home, family and community ties and once released suffer stigmatization even if acquitted. The impact may be felt over the rest of his or her life – and indeed into the next generation. Children of imprisoned parents may be forced to leave school to earn money to replace lost earnings or suffer many other negative outcomes including increased propensity for violence and other anti-social behaviour.

Families and communities lose income and may be forced to use savings or to sell meagre resources in order to pay for transport to and from the detention centre, unavoidable bribes, court fees, lawyer's fees etcetera. Items sold might have sustained whole families or communities – for example in a case in Malawi a family was forced to sell a maize milling machine when the head of the household was detained - this resulted in lost income for the family and meant that the whole community had to go back to pounding maize by hand.

This has a huge impact on the development of communities, deepens poverty and is a waste of scant resources that could instead be spent on health, education, crime prevention or legal aid. The direct costs are borne by the government but the indirect costs by families and communities and many costs remain hidden or only to emerge in the next generation.

To address these problems, practitioners and policy makers are working together on a **Global Campaign for Pre-trial Justice** to document the scale and consequences of the problem; build a strong community of practice; and pilot effective, low cost solutions such as interventions that engage paralegals to provide frontline legal assistance within the first hours after arrest. There is a need for concerted action to ensure that practices comply with regional and international human rights standards and at the same time maximize the use of resources and contribute to development.

We call upon the African Commission on Human and Peoples' Rights to take urgent **action to draw attention**

Appendix 3

Recommendation on Prevention and Prohibition of Torture and Other Inhuman and Degrading Treatment or Punishment; and Prison and Penal Reform in Africa during the NGO Forum on the Participation of NGOs at the 49th Ordinary Session of the African Commission on Human and Peoples' Rights

1. Introduction:

The Working Group focused on two thematic areas namely:

- (i) Prevention and Prohibition of Torture;
- (ii) Prisons and Conditions of Detention in Africa.

The group assessed the situation relating to these issues and the status of compliance to human rights conditions

in relation to these. The group further discussed on how to follow – up on previous resolution adopted by the commission to ensure their effective implementation and on strategies to enhance NGO engagement with the Commission and its relevant mechanisms. The group also noted best practices and obstacles faced in realisation of these rights as well as identified strategies to promote effective networking amongst the Working Group. Participants presented reports on the following African Countries: Uganda, Kenya, Cameroon, Zimbabwe, Togo, Nigeria and South Africa.

The group also noted that there are several cross-cutting issues in relation to torture and Prisons in Africa such as: Pre – Trial Justice, Mentally Challenged Persons in Prisons/Detention Facilities, Poor Legislative Framework, Lack of Adequate Health Facilities in Prisons and Detention Facilities, Refugees in Detention Centres; Solitary Confinement, etc.

Key recommendations were made by the Working Group to the Commission towards enhancing the promotion and protection of human rights in Africa with respect to prevention of Torture and other Cruel, Inhuman and Degrading Treatment, and promotion of Prison and Conditions of Detention in Africa.

2. Recommendations:

On Torture

1. Commends the Commission for its promotional visit to the Democratic Republic of Congo (DRC) and

applauds the government of DRC for adoption of legislation criminalising torture in its jurisdiction, we are concerned that most African States are yet to criminalise torture in their respective domestic laws and urge all African States to urgently do so as well as establish the effective implementation of these.

2. Condemns the practice of extra-ordinary renditions where persons are transferred to another State where they are at a risk of being subjected to torture, cruel, inhuman and degrading treatment or punishment contrary to Article 20 of the Robben Island Guidelines.

3. Condemns the practice of expelling or extraditing individuals to other States where they are at a risk of being tortured contrary to article 15 of the Robben Island Guidelines, Article 3(1) of the United Nations Convention Against Torture, Cruel, Inhuman and Degrading Treatment or Punishment.

4. Urges the Commission to strengthen its focus on the rights of victims of torture to holistic rehabilitation including health, social, legal and other services and to justice and reparation. Furthermore, to engage with Member State to ensure that these victims' rights are fully respected, protected and promoted and mechanisms /structures are put in place to implement these accordingly; including activities aimed at documentation and redressing of torture and to support rehabilitation services/centres in the African region.

5. Urges the Member States to put in place measures to end impunity and to allow independent investigation to prosecute public officials responsible for acts of torture and request the Commission to take concrete steps to monitor the implementation of this.

6. Urges that Member States to make public ALL places of detention and avail the Commission and the National Human Rights Institutions as well as relevant NGOs with this information and allow access to these places of detention by national, regional and international oversight/monitoring mechanisms.

7. Urges Member States to cooperate effectively with the CPTA in order to fully implement its mandate.

On Prisons:

1. Urges the Commission to effectively engage with the African Correctional Services Association (ACSA), relevant African and international NGOs and other agencies working in the field of prisons and develop standard norms to enhance prison reform in Africa as well as implement relevant resolutions of the Commission on Prisons and Conditions of Detention in Africa

2. Commends the Commission on its support for the Prisons Reform Intervention in Africa and urges the Commission to further support the Prison Reform Intervention in Africa Project as well as ensure practical implementation of programmes to promote prison reform

in Africa as well as work with member states and NGOs to ensure the full actualization of concrete initiatives in this regards.

3. Urges member states to effectively fund prisons in their respective countries and put in place mechanisms to bring them in accordance with international standards.

4. Requests member states to guarantee access to the Special Rapporteur on Prisons and Condition of Detention in Africa, National Human Rights Commission and to CSOs/ NGOs to Prisons and ALL places of Detention within their jurisdiction, to ensure effective monitoring, oversight of conditions and provision of support services to detainees and prisoners.

5. Urges Member States to take urgent measures to address the problems of high prison population, high number of awaiting trial prisoners and other issues relating to pre-trial justice in their respective jurisdictions and call on the Commission to monitor compliance of member states to this.

Appendix 4

THE UNITED NATIONS CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (UNCAT)

This document was adopted and opened for signature, ratification and accession by the General Assembly resolution 39/46 on December 10th, 1984 and entered into force on the 26th of June, 1987, in accordance with Article 27 (1).

Article 1

1. For the purpose of this convention, the term "torture" means any act by which severe pain or suffering , physical or mental, is intentionally inflicted on a person for such purpose as obtaining from him/her or a third person information or a confession, punishing him/her for an act he/she or a third person has committed or is suspected of having committed, or intimidating or coercing

him/her or a third person, or for a reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Torture does not include pain or suffering arising only from inherent in or incident to lawful sanctions.

2. This Article is without prejudice to any international instrument or national legislation which does or may contain provisions to wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional; circumstance whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State party shall expel, return or extradite a person to another State where there are substantial grounds for believing that

he/she would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authority must take into account all relevant considerations including, where applicable, the existence in the State concern of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State party must ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and an act by any person which constitutes complicity or participation in torture.
2. Each State party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State party shall take measures as may be necessary to establish its jurisdiction over the offences referred in Article 4 in the following cases:
 - (a) When offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

- (b) When the alleged offender is a national of that State;

standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to Article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in Article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in Article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States parties. States parties undertake to include such offences in every extradition treaty to be concluded between them.
2. If a State party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State party with which it has no extradition treaty, it may consider the convention as the legal basis for extradition in respect to such offences. Extradition shall be subject to the other conditions provided by the law of the requested state.

3. States parties which do not make extradition conditional on the existence of a

Article 13

Each State party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and shall be taken to ensure that the complainant and witness are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State party shall ensure in its legal system that the victim of an act of torture obtain redress and has an enforceable fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this Article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15

Each State shall ensure that any Statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

Appendix 5

CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 Chapter IV

Fundamental Rights

33.

(1) Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary -

- (a) for the defence of any person from unlawful violence or for the defence of property:
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully

- detained; or
- (c) for the purpose of suppressing a riot, insurrection or mutiny.

34.

- (1) Every individual is entitled to respect for the dignity of his person, and accordingly -
 - (a) no person shall be subject to torture or to inhuman or degrading treatment;
 - (b) no person shall be held in slavery or servitude; and
 - (c) no person shall be required to perform forced or compulsory labour.
- (2) for the purposes of subsection (1) (c) of this section, "forced or compulsory labour" does not include -
 - (a) any labour required in consequence of the sentence or order of a court;
 - (b) any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such;
 - (c) in the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service;

- (d) any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or
- (e) any labour or service that forms part of -
 - (i) normal communal or other civic obligations of the well-being of the community.
 - (ii) such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or
 - (iii) such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly.

35. (1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law -

- (a) in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;
- (b) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon

him by law;

reasonable time" means -

- (a) in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometres, a period of one day; and
 - (b) in any other case, a period of two days or such longer period as in the circumstances may be considered by the court to be reasonable.
- (6) Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person; and in this subsection, "the appropriate authority or person" means an authority or person specified by law.
- (7) Nothing in this section shall be construed -
- (a) in relation to subsection (4) of this section, as applying in the case of a person arrested or detained upon reasonable suspicion of having committed a capital offence; and
 - (b) as invalidating any law by reason only that it authorises the detention for a period not exceeding three months of a member of the armed forces of the federation or a member of the Nigeria Police Force in execution of a sentence imposed by an officer of the armed forces of the

Federation or of the Nigeria police force, in respect of an offence punishable by such

interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard in private and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

- (5) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty;
Provided that nothing in this section shall invalidate any law by reason only that the law imposes upon any such person the burden of proving particular facts.
- (6) Every person who is charged with a criminal offence shall be entitled to -
 - (a) be informed promptly in the language that he understands and in detail of the nature of the offence;
 - (b) be given adequate time and facilities for the preparation of his defence;
 - (c) defend himself in person or by legal practitioners of his own choice;
 - (d) examine, in person or by his legal practitioners, the witnesses called by the prosecution before any court or tribunal and obtain the attendance and carry out the examination of witnesses to testify on

his behalf before the court or tribunal on the same conditions as those applying to

- (2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction ceremony or observance relates to a religion other than his own, or religion not approved by his parent or guardian.
- (3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.
- (4) Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society.

39.

- (1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.
- (2) Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions: Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the President

on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or

42.

- (1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:-
 - (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or
 - (b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.
- (2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.
- (3) Nothing in subsection (1) of this section shall invalidate any law by reason only that the law

imposes restrictions with respect to the appointment of any person to any office under the

- (I) relating to limitation of actions;
 - (j) relating to property vested in bodies corporate directly established by any law in force in Nigeria;
 - (k) relating to the temporary taking of possession of property for the purpose of any examination, investigation or enquiry;
 - (l) providing for the carrying out of work on land for the purpose of soil-conservation; or
 - (m) subject to prompt payment of compensation for damage to buildings, economic trees or crops, providing for any authority or person to enter, survey or dig any land, or to lay, install or erect poles, cables, wires, pipes, or other conductors or structures on any land, in order to provide or maintain the supply or distribution of energy, fuel, water, sewage, telecommunication services or other public facilities or public utilities.
- (3) Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in under or

upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone

- (4) The National Assembly -
 - (a) may confer upon a High Court such powers in addition to those conferred by this section as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by this section; and
 - (b) shall make provisions-
 - (i) for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this Chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim, and
 - (ii) for ensuring that allegations of infringement of such rights are substantial and the requirement or need for financial or legal aid is real.

Appendix 6

PRINCIPLES ON THE EFFECTIVE PREVENTION AND INVESTIGATION OF EXTRA-LEGAL, ARBITRARY AND SUMMARY EXECUTION PREVENTION

1. Government shall prohibit by law all extralegal, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal law, and are punished under appropriate penalties which take into account the seriousness of such offences. Exceptional circumstances a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances including, but not limited to, situations of internal armed conflict, excessive or illegal use of force by a public official or other person acting in an official capacity or by a person acting as the instigations, or with the consent or acquiescence of, such person, and situation in which deaths occur in custody. This prohibition shall preview over decrees issued by government authority.

2. In other to prevent extralegal, arbitrary and summary execution, Governments shall ensure strict control including a clear chain of command, over all officials responsible for apprehension, arrest, detention, custody and imprisonment, as well as those officials authorized by law to use force and firearms.
3. Governments shall prohibit orders from superior officers or public authorities authorizing or inciting other person to carry out any such extralegal, arbitrary or summary executions, All person shall have the right and the duty to defy such orders.
4. Effective protection through judicial or others means shall be guaranteed to individuals and groups who are in danger of extralegal, arbitrary or summary executions, including those who receive death threats.
5. NO one shall be involuntary returned or extradited to a country where there is sustained ground for believing that he or she may become a victim of extralegal, arbitrary or summary execution in the country.
6. Governments shall ensure that persons deprived of their liberty are held in officially recognized places of custody, and that accurate information on their custody and whereabouts, including transfers is made promptly available to their relatives and lawyer or other persons of confidence.
7. Qualified inspectors, including medical personnel, or any equivalent independent authority, shall conduct inspections in places of custody on a regular basis, and be empowered to undertake unannounced inspections on their own initiative, with full guarantees of

independence in the exercise of this function. The inspectors shall have unrestricted access to all persons in such places of custody as well as to all their records.

8. Government shall make every effort to prevent extralegal, arbitrary and summary executions through measures such as diplomatic intercession, improved access of complainants to intergovernmental and judicial bodies, and public denunciation. Intergovernmental mechanisms shall be used to investigate reports of any such executions and to take effective action against such practices. Governments including those of countries where extralegal, arbitrary and summary executions are reasonably suspected occur, shall cooperate fully in international investigations on the subject.

INVESTIGATION

9. There shall be a thorough, prompt and impartial investigation of all suspected cases of extralegal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Government shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the persons responsible, and any pattern of practice, which may have brought about that death. It shall include adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.

10. The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. The same shall apply to any witness. To this end, they shall be entitled to issue summonses to witness, including the officials allegedly involved, and to demand the production of evidence.
11. In cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Government shall pursue investigations through an independence commission of inquiry or similar procedure. Member of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these principles.
12. The body of the deceased person shall not be disposed of until an adequate autopsy is conducted by a physician, who shall, if possible, be an expert in forensic pathology. Those conducting the autopsy shall have the

right of access to all investigative data, to the place where the body was discovered, and to the place where the death is thought to have occurred. If the body has been buried and it later appears that an investigation is required. The body shall be promptly and competently exhumed for an autopsy. If skeletal remains are discovered, they should be carefully exhumed and studied according to systematic anthropological techniques.

13. The body of the deceased shall be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to be carried out. The autopsy shall, at a minimum, attempt to establish the identity of the deceased and the cause and manner of death. The time and place of death shall be determined to the extent possible. Detailed colour photographs of the deceased shall be included in the autopsy report in order to document and support the findings of the investigation. The autopsy in order to document and support the findings of the investigation. The autopsy report must describe any and all injuries to the deceased including any evidence of torture.
14. In order to ensure objective results, those conducting the autopsy must be able to function impartially and independently of any potentially implicated persons or organizations or entities.
15. Complainants, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation. Those potentially implicated in extralegal,

arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations.

16. Families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. The family of the deceased shall have the right to insist that a medical or other qualified representative be present at the autopsy. When the identity of a deceased person has been determined, a notification of death shall be posted, and the family or relatives of the deceased shall be informed immediately. The body of the deceased shall be returned to them upon completion of the investigation.
17. A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.

LEGAL PROCEEDINGS

18. Government shall ensure that persons identified by the investigation as having participated in extralegal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice. Government shall either bring such persons to justice or cooperate to extradite such persons to other countries wishing to exercise jurisdiction. This principle shall apply irrespective of who and where the perpetrators of the victims are, their nationalities or where the offence was committed.
19. Without prejudice to principle 3 above, an order from a superior officer or a public authority may not be invoked as a justification for extralegal, arbitrary or summary executions. Superiors, officers or other public officials may be held responsible for acts committed by officials under their authority if they had a reasonable opportunity to prevent such acts. In no circumstances, including a state of war, siege or other public emergency, shall blanket immunity from prosecution be granted to any person allegedly involved in extralegal, arbitrary or summary executions.
20. The families and dependants of victims of extralegal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

*Recommended by Economic and Social Council Resolution 1989/65 of 24 May 1989, and consequently Assembly Resolution 43/173 of 29 November 1985.

CHAPTER 17

Appendix 7

UNITED NATIONS CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICERS

The General Assembly

Considering that the purpose proclaimed in the Charter of the United Nations include the achievement of international cooperation in promoting and encouraging 'respect for human rights and for fundamental freedoms for all without discrimination as to race, sex, language or religion.

Recalling, in particular, the Universal Declaration of Human Rights and the International Covenants on Human Rights.

Recalling also the Declaration on the Protection of All Persons From Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its Resolution 3452 (XXX) of 9 December 1975.

Mindful that the nature of the functions of law enforcement in the defence of public order and the

manner in which those functions are exercised have a direct impact on the quality of life of individuals as well as the society as a whole.

Conscious of the important task, which law enforcement officials are performing diligently and with dignity, in compliance with the principles of human rights.

Aware, nevertheless, of the potential abuse which the exercise of such duty entails.

Recognizing that the establishment of a code of conduct for law enforcement officials is only one of several important measures for providing the citizenry served by law enforcement officials with the protection of all their rights and interests.

Aware that there are additional important principles and prerequisite for the humane performance of law enforcement functions, namely:

- (a) That like all agencies of the criminal justice system, every law enforcement agency should be representative and responsive and accountable to the community as a whole.
- (b) That the effective maintenance of ethical standards among law enforcement officials depends on the existence of a well-conceived, popularly and humane system.

- (c) That every law enforcement official is part of the criminal justice system, the aim of which is to prevent and control crime and that the conduct of every functionary within the system has an impact on the entire system.
- (d) That every law enforcement agency in fulfillment of the first premise of every profession, should be held to the duty of disciplining itself in complete conformity with the principles and standards herein provided and that the action of law enforcement officials should be responsive to public scrutiny, whether exercised by a review board, a ministry, a procuracy, the judiciary, an ombudsman, a citizens' committee or any combination of thereof, or any other reviewing agency.
- (e) That standards as such lack practical value unless their content and meaning, through education and training, and through monitoring become part of the creed of every law enforcement official.

Adopts the Code of Conduct for Law Enforcement Officials set forth in the annex to the present resolution and decides to transmit it to the Government with the recommendation that a favourable consideration should be given to its use within the framework of national legislation or practice as a body of principles for observance by law enforcement officials.

Appendix 8

CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

Article 1

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary:

- (a) The term "law enforcement officials" includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.
- (b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State Security forces, the definition of law enforcement officials shall be regarded as including offices of such services.
- (c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by

reason of personal, economic, social or other emergencies are in need of immediate aid.

- (d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary

- (a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of

Prisoners and the Vienna Convention on Consular Relations.

- (b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

Article 3

Law enforcement officials may use force only when it is strictly necessary and to the extent required for the performance of their duty.

Commentary

- (a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.
- (b) National law ordinarily restricts the use of force by enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is

disproportionate to the legitimate objective to be achieved.

- (c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 4

Matters of a confidential nature in possession of law enforcement officials shall be kept confidential, unless the performance of the needs of justice strictly require otherwise.

Commentary

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior or exceptional circumstances such as state of war, threat of war, threat to national security, internal instability or any public emergency as a justification for or other cruel, inhuman or degrading treatment or punishment.

Commentary

- (a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which : “[Such an act is] an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments]”
- (b) The Declaration defines torture as follows:
“...torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by as at the instigation of a public official on a person for such purposes as obtaining from him or a third person information

or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.”

- (c) The term “cruel, inhuman or degrading or punishment” has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Commentary:

- (a) “Medical Attention”, which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.
- (b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgment of such personnel when they

recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.

- (c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.
- (d) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violation of law.

Article 7

Law enforcement officials shall not commit any act of corruption they shall also rigorously oppose and combat all such acts.

Commentary

- (a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies.

- (b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of in connection with one's duties in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.
- (c) The expression "act of corruption" referred to above be understood to encompass attempted corruption.

Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them. Law enforcement officials who have reason to believe that a violation of the present code has occurred or is about to occur shall report the matter to their superior authorities and where necessary to other appropriate authorities or organs vested with reviewing or remedial power.

Commentary:

- (a) This code shall be observed whenever it has been incorporated into national legislation or practice. If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.
- (b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations within the chain of command and take other lawful actions outside the chain of command only when no other remedies are available for effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.
- (c) The term "appropriate authorities or organs vested with reviewing or remedial power" refers to any authority or organs existing under national law, whether national to the law enforcement agency or independent thereof, with statutory, customary or other power to review grievances and complaints arising out violations within the purview of this Code.
- (d) In some countries, the mass media may be regarded as performing complaint review

functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.

- (e) Law enforcement officials who comply with the provisions of this Code deserved the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.

* Adopted by the United Nations General Assembly Resolution.

Appendix 9

BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS.

Whereas the work of the law enforcement officials is a social service of great importance and there, therefore, a need to maintain and whenever necessary, to improve the working conditions of status of these officials.

Whereas a threat to the life and safety of the law enforcement officials must be seen as a threat to the stability of society as a whole.

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International

Covenant on Civil and Political Rights.

Whereas the Standard Minimum Rules for the treatment of Prisoners provide for the circumstances in which prison officials may use force in the course of their duties.

Whereas article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials.

Whereas the Seventh Congress, in its resolution 14, inter alia, emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights.

Whereas, the Economic and Social Council, in its resolution 1986/10, Section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, inter alia, welcomed this recommendation made by the

Council.

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the rights to life, liberty and the security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct.

The basic principles set forth below, which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Government within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyer, members of the executive branch and the legislation, and the public.

General Provisions

1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Government and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under the review.

2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bulletproof vests and bulletproof means of transportation, in order to decrease the need to use weapons of any kind.
3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.
4. Law enforcement officials, in carrying out their duty, shall as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
 - (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved.
 - (b) Minimize damage and injury, and respect and preserve human life.
 - (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.
 - (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.
6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.
7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under the law.

8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special Provisions

9. Law enforcement officials shall not use firearms against persons except in self-defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient, or to achieve their objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.
10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning on their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstance of the incident.
11. Rules and regulations on the use of firearms by law

enforcement officials should include guidelines that:

- (a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted.
- (b) Ensure that firearms are used only in appropriate circumstances in a manner like to decrease the risk of unnecessary harm;
- (c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
- (d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearm and ammunition issued to them.
- (e) Provide for warnings to be given if appropriate, when firearms are to be discharged.
- (f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

Policing unlawful assemblies

- 12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.
- 13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.
- 14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials may not use firearms in such cases, except under the conditions stipulated in principle 9.

Policing persons in custody or detention

- 15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

16. Law enforcement officials, in their relations with the persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.
17. The proceeding principle are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34, and 54.

Qualifications, training and counseling

18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.
19. Government and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency

- standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.
20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternative to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crown behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.
 21. Governments and law enforcement agencies shall make stress counseling available to law enforcement officials who are involved in situations where force and firearms are used.

Reporting and review procedures

22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported

pursuant to these principles. Government and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury; other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.
24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.
25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in

compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such by other officials.

26. Obedience to superior orders shall be no defense if law enforcement officials knew that an order to use firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

*Adopted by the Eight United Nations Congress on the Prevention of Crime and Treatment of Offenders, held at Havana Cuba, 27 August 7 September 1990.

About PRAWA

PRAWA is a Non-governmental organization aimed at promoting Security, Justice and Development in Africa. It was established in 1994 and in 1998 it secured observer status with the African Commission on Human and Peoples' Rights. The organization has three major programme components namely, Security and Justice Sector (SJ) Programme Component, Social Development and Rehabilitation (SDR) Programme Component, and Research & Documentation (R&D) Component. It utilizes the following strategies in the implementation of its Programmes: Training and Capacity Building (TRACAD); Research and Advocacy; Human Rights Monitoring; Rehabilitation, Care and Support Services (RECASS); and Community Justice Programme and Engagement (COJUP).

PRAWA currently has about 77 staff made up of 16 full-time staff and 61 part-time, volunteer/associate staff). The organization has a 12 member Governing Board. The

strength of the organization rests on its multi-disciplinary team, a wealth of background in research, policy and practice in the field as well as its ability to engage both the formal and informal sectors, and its ability to introduce and implement innovative and high impact schemes. The organization has developed over the past decade and half, track record in implementation of research, innovative/demonstration projects, training / capacity building, research documentation, advocacy and provision of support services to vulnerable groups and those in conflict with the law including Youths-at-risks, torture victims, prisoners, ex- prisoners and their families utilizing both community- based and institutional/non-community-based platforms.

PRAWA's strategies include promotion of sustainability and mainstreaming of interventions.

PRAWA believes in the importance of an effective, just, humane and accessible justice system which recognizes support and rehabilitation to victims, offenders, and the community. The organization has implemented several innovative prison-based and community-based programmes. For instance, in 1998, PRAWA introduced the first Alternative to Justice Programme in West Africa which trained the first batch of 66 volunteers in partnership with AVP UK. It also introduced the Family Link Project (1998/99), Prison Link Project (1999/2000) and several training programmes across Nigeria on International Human Rights Standards, Good Prison Practice and Prevention of Torture for criminal justice

agents (including prison, police and judicial officers) and other related stakeholders over the years, and to date trained over 10,000 persons on this. From 2000 – 2002 PRAWA introduced the African Transformative Justice Project (ATJP) in Nigeria (Lagos), Ghana (Accra) and The Gambia (Banjul) with the following activities: Victim-Offender Mediation and Reconciliation Services, Basic Information Scheme (for pre-trial, trial and post-trial stages), Family Group Conferencing, Community Justice Forum, and Alternatives to Imprisonment – Community Service Scheme. PRAWA also in 2003 introduced the Crime Prevention and Community Development Scheme (CP-CDS) in three communities in Abia and Imo States of Nigeria. This project involved the training of community leaders and volunteers on Life Planning Skills, Crime Prevention and Reduction of Offending Behavior, and Income Generating Skills. The scheme also established an income generating project as well as none-interest yearly revolving loan scheme in each of the 3 communities. From 2008 - 2009, PRAWA implemented the Prison Decongestion and Re-entry Scheme in Enugu State Nigeria. Current projects of PRAWA include the following: The Torture Documentation and Redress Scheme (TDRS) being implemented since 2008 in Enugu State Nigeria involving the training of lawyers, medical doctors and psychologists on torture documentation and redress and the development of draft curriculum on torture prevention in medical and law faculties as well as psychology departments. The project also involves monitoring of places of detention and provision of legal

redress and other support to victims of torture as well as advocacy and awareness creation on the issue of torture. PRAWA is also currently implementing the Prison Reform Interventions in Africa (PRIA) Project in the following countries - Nigeria, Kenya, Zambia, Burundi, Rwanda and the Democratic Republic of Congo (with the pilot scheduled to run from 2010 – 2013). The organization undertook the research on Justice Sector Inventory Portfolio for Enugu State for Justice for All (J4All) Nigeria (April 2011). It is also currently managing the project on the speeding up of awaiting trial prisoners cases in Enugu State, Nigeria. Early 2010 PRAWA commenced engagement with the Amokpo Nike Community in Enugu State to pilot sustainable Community – NGO partnership. As part of this partnership, PRAWA in collaboration with the village leadership initiated a Community Justice Project in the Community which includes Rights Education and Mediation Services through the use of para-legal/volunteers. The project Steering Committee has been established and initial volunteers on the scheme also trained.

PRAWA to date has published over 55 publications, four audio-visuals/documentaries and other Information Education and Communication (IEC) Materials on the field and has carried out over 100 prison/ detention centres visits/monitoring activities in several countries such as Ghana, Rwanda, Nigeria, Sierra Leone, Liberia, Mozambique, South Africa, Zimbabwe, Kenya, Malawi, Swaziland, The Gambia, UK, Netherlands, USA, Czech Republic, Thailand, China, Barbados, Zambia, Burundi,

Democratic Republic of Congo, etc.

The organization collaborates with several governmental, non-governmental, community-based organizations and faith-based organizations and professional bodies in the implementation of its activities. PRAWA is a member of the following networks/associations: Enugu State Justice Reform Team (ESJRT), African Security Sector Network (ASSN), International Security Sector Advisory Team (ISSAT), Association of Security Sector Education and Training (ASSET), International Rehabilitation Council for Torture Victims (IRCT), and the International Corrections and Prisons Association (ICPA). PRAWA is also a member of the Consortium of Local Partners for the Justice for All (J4All) Programme Nigeria.

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About the Project

The Capacity Building and Interactive Session for The Nigerian Police Force on the Promotion of Human Rights and the Prevention of Torture is a sensitization and empowerment project introduced by PRAWA in partnership with the Switzerland embassy in Nigeria and the Nigerian Police Force. The focus of the exercise is to create awareness and raise the consciousness of officers and the rank and file of the Nigerian Police Force to Human Rights Laws as it relates specially to Policing. The aim of the training is to ensure that the Nigerian Police Force is abreast with existing International, Regional and National laws and treaties that empowers their statutory functions and responsibilities to both themselves and the society as a whole with respect to human rights observance. The Capacity building and Interactive Session on the Promotion of Human Rights and Prevention of Torture project aims at encouraging the adherence of the Nigerian Police Force to the Human Rights laws and practices. As a strategy towards ensuring

an effective Participatory Learning Approach, each officer would first be engaged in a Pre-test Evaluation exercise. This will require each participant to fill a questionnaire designed to aid the participant gain insight into the interactive session. Succeeding the pre evaluation process is the training and interactive session which are facilitated by the project resource person(s). Post evaluation exercises are carried out immediately after the training and interactive session. The aim of the post evaluation exercise is to ascertain the level of participants understanding of the contents of the training.

The training is police station based and therefore provides opportunity for all the police personnel (both the officers and the rank and file) in the targeted police station/divisional headquarters to participate in the training. This helps to deal with the problem of frequent loss of trained manpower through transfers, retirement, death or other exists from the organization. Furthermore, this approach is both cost effective and builds a holistic coverage to provide increased momentum and support toward compliance with the tenets of the training – i.e. human rights principles/standards. Another aspect of the project is that it provides opportunity to listen to the concerns of the police on their challenges and impediments towards compliance with these standards and encourage open dialogue on the issue and positive ways of preventing or reducing these challenges or their effects. Again, the PRAWA team utilizes this opportunity to undertake on-the-spot visit to the police facilities and

identify areas of possible intervention, assistance and support including needs for advocacy. Finally, there is the community participation component of the project which is encouraged through the airing of 15 minutes audio-drama weekly (per quarter 13 weeks episodes) in designated radio stations to create awareness on torture and encourage the need to support its prevention by the general public and policy makers. Quizzes are given at the end of each of the radio drama episodes with incentives for winners (from the public) for each of the quiz asked at the end of the episode.

PRAWA In-Police Station based trainings and interactive session dates back to 2009 when it piloted the scheme in Enugu State Nigeria. This involved weekly training in each of the police divisional headquarters in the metropolis training over 500 police officers through this effort with the support of IRCT/OAK Grant. In 2010 IRCT/OAK Grant supported the replication of this scheme in the Federal Capital Territory (FCT) of Nigeria. In 2011, the Switzerland Embassy provided support for the strengthening of this scheme including the production of this training manual. Between 2009 and 2011, over 1,500 police officers participated in the training.



See below for some of the photographs taken during the session.





PICTURES FROM OAK POLICE TRAINING 2010



Figure : PICTURES FROM KARMO TRAINING 2010



Figure 2 : PICTURES FROM JIKWOYI TRAINING 2010



IEC MATERIALS PRODUCED ON THE SCHEME

