

**Joint submission to the United Nations Universal Periodic Review
The federal republic of NIGERIA**

**Lawyers for Lawyers
The International Bar Association's Human Rights Institute**

Session on the Working Group of the UPR

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Presented by:

LAWYERS FOR LAWYERS (L4L)

PO box 15732, 1001 NE Amsterdam, the Netherlands

info@lawyersforlawyers.nl

www.lawyersforlawyers.org

THE INTERNATIONAL BAR ASSOCIATION (IBA)

5 Chancery Lane, London WC2A 1LG, United Kingdom iba@int-bar.org

<https://www.ibanet.org>

ibahri@int-bar.org

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A. Introduction

1. Lawyers for Lawyers (“L4L”) and The International Bar Association’s Human Rights Institute (“IBAHRI”) submit this report on the state of human rights in the Republic of Nigeria (“Nigeria”), particularly in respect of the legal profession, with recommendations for the 45th session of the Universal Periodic Review (UPR) Working Group in the UN Human Rights Council in January 2024.
2. L4L is an independent, non-political and not-for-profit lawyers’ organization established in 1986. Our mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognized norms and standards. Our work to support lawyers who are at risk as a result of discharging their professional duties, seeks to protect them from threats, risks and reprisals, strengthens their international recognition and protection in laws, policies and practices, and empower them to fulfill their role as essential agents of the administration of Justice. L4L was granted special consultative status with the UN Economic and Social Council in July 2013.
3. The International Bar Association (“IBA”), established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of 80,000 individual lawyers and more than 190 Bar Associations and Law Societies, spanning all continents. The IBA’s Human Rights Institute (IBAHRI), an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

B. Executive Summary

4. This submission highlights L4L and IBAHRI’s key concerns regarding Nigeria’s compliance with its international human rights obligations to guarantee everyone the right to independent counsel of their own choosing as set out in the International Covenant on Civil and Political Rights (“ICCPR”)ⁱ, the UN Basic Principles on the Role of Lawyers (“Basic Principles”)ⁱⁱ and other international human rights instruments. This submission focuses on the following issues:
 - (a) Intimidation and harassment of lawyers (Section D);
 - (b) Arbitrary detention of lawyers (Section E);
 - (c) Role of the Bar Association (Section F).

C. Normative and Institutional Framework of the State

5. The adequate protection of human rights and fundamental freedoms requires that everyone has effective access to justice and legal assistance. Legal assistance can be provided effectively only in a judicial system where lawyers, along with judges and prosecutors, are free to carry out their professional duties independently of the government and without political pressure. This follows inter alia from the Charter of the United Nations, the Universal Declaration of Human Rights, and the ICCPR, to which Nigeria acceded in 1993. In particular, the protection and the independence of justice actors is a key component to ensure the well-functioning of justice systems and to combat impunity. This is a precondition to the right to a fair trial, protected by Article 14 of the ICCPR.
6. On 22 June 2017, the HRC passed a resolution condemning in general “the increasingly frequent attacks on the independence of [lawyers], in particular threats, intimidation and

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interference in the discharge of their professional functions”. The HRC expressed its deep concern “about the significant number of attacks against lawyers and instances of arbitrary or unlawful interference with or restrictions to the free practice of their profession” and called upon States “to ensure that any attacks or interference of any sort against lawyers are promptly, thoroughly and impartially investigated and that perpetrators are held accountable”.ⁱⁱⁱ

7. In its task of promoting and ensuring the proper role of lawyers, the Government of Nigeria should respect the Basic Principles within the framework of its national legislation and practice. The Basic Principles provide a concise description of international standards relating to key aspects of the right to independent counsel. Adherence to the Basic Principles is considered a fundamental precondition to fulfilling the requirement that all persons have effective access to independent legal assistance.^{iv}
8. During the third UPR cycle in 2018, Nigeria supported^v some recommendations concerning ensuring their safe working environment for human rights defenders and the guarantee of fairness and effectiveness of the justice system.^{vi} Nigeria supported two other recommendations on protecting and promoting freedom of expression, association and peaceful assembly in order to create a safe and favourable environment for human rights defenders, journalists and civil society^{vii}. Nigeria opted not to submit a mid-term report for the assessment on the implementations of recommendations made during the UPR Cycle in 2018.
9. Reports gathered by L4L and IBAHRI, including information received from lawyers in Nigeria, demonstrate that Nigeria does not adequately uphold the necessary guarantees for the proper functioning of the legal profession as set out in the Basic Principles. Consequently, some lawyers encounter serious difficulties in carrying out their professional duties independently. This undermines the proper functioning of the judicial system, including the right to fair trial and effective access to justice.

D. No Effective Guarantees for the Functioning of Lawyers

a. Violence, intimidation and harassment of lawyers

10. Principle 16 Basic Principles states that “[g]overnments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference [...] and shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”. Furthermore, the Basic Principles require authorities to adequately safeguard the security of lawyers who are threatened because of discharging their functions.^{viii}
11. For this cycle of the UPR review, L4L and IBAHRI have received information including firsthand reports that some lawyers have faced intimidation and harassment for their work on politically sensitive cases or cases involving human rights. L4L and IBAHRI have been informed that some lawyers are being subjected to police brutality, harassment and intimidation in the form of verbal and physical assaults as a result of their professional activities.
12. Various reports inform of violence against Nigerian lawyers. It was brought to the attention of L4L and IBAHRI that legal professionals are not only harassed in their daily lives, but also mistreated, abducted and even murdered which can be linked to their legal exercise of their

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professional activities. Outrageous violence against legal professionals, such as armed kidnappings have led to nationwide concerns about the harassment Nigerian lawyers face.

13. According to the Basic Principles, *“where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.”*^{ix} The authorities have not adequately protected lawyers facing harm to their safety, specifically with the absence of thorough investigation into the criminals involved and their subsequent prosecution.

E. Arbitrary arrests of Lawyers

14. In accordance with Principle 16(c) of the Basic Principles, governments must ensure that lawyers *“shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”*.
15. Pursuant to Article 23 of the Basic Principles, *“[l]awyers like other citizens are entitled to freedom of expression, belief, association, and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.”*
16. Nigerian legal professionals face threats to their freedom by individual abductors, but also through arrests by police. In the more conservative north of Nigeria, it is a common practice that lawyers who speak out against police officers, the judiciary, or governmental officials, face arbitrary arrests. This practice has become so common that lawyers have reported to L4L and IBAHRI that they see being arbitrarily arrested as a part of their job.
17. In one recent case, a human rights lawyer was arrested in his home and subsequently detained for calling out a police officer for harassment and threatening behavior against a civilian. Although now set free, this illustrates the intimidation lawyers face when speaking out against actions of the authorities. Reports we received from lawyers have shown harassment like this to be a pattern.
18. L4L and IBAHRI further spoke with a lawyer that mentioned this is a common practice and that mainly young and outspoken lawyers face this form of harassment. This lawyer had been arrested frequently as a young lawyer, just for disputing unlawful acts of the police. The lawyers are then detained for just a few hours, without charges or due process, in an attempt to intimidate the lawyer. This creates a chilling effect in which lawyers are silenced for rightfully speaking out about their, or their clients', rights. In the north, the effects of this are already apparent, with lawyers reportedly refraining from speaking out against illegal actions from law enforcement officers.
19. L4L and IBAHRI have also received reports of criminal prosecution of some lawyers in relation to their legitimate professional activities. It has been reported to L4L and IBAHRI that lawyers have been unfairly prosecuted in relation to their work as a legal professional or in violation of their freedom of speech.

Mr Inibehe Effiong

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Mr. Effiong, a human rights lawyer practicing in Lagos, was sent to prison on July 27, 2022 on allegations of contempt of court and insulting behaviour. This happened during a court case in which he objected to armed policemen being present in the courtroom, a practice which is not allowed according to Nigerian law. He further objected to the decision of the judge to expel a journalist with the Premium Times from the courtroom. Before then, the judge had already openly threatened to send Mr. Effiong to jail on several occasions, because he repeatedly asked her to recuse herself.

Mr Effiong was defending his client and fellow lawyer Mr. Ekpenyong against Governor Udom Emmanuel Akwa from Ibom State in the south of Nigeria. Mr. Ekpenyong was sued by the governor for accusing him of corrupting judges involved in election petition cases; an allegation Mr Ekpenyong denied. His client had been found guilty of libel and Mr. Effiong argued that the judge was biased or likely to be biased in this case by mentioning the actions stated before. It is believed the charges of contempt of court resulted from this accusation. Under section 133 of the Nigerian criminal code, contempt of court to any person who: *“within the premises in which any judicial proceeding is being had or taken, or within the precincts of the same, shows disrespect, in speech, or manner, to or with reference to such proceeding, or any person before whom such proceeding is being had or taken”.*^x

This process allegedly did not uphold fair trial standards as Mr. Effiong was neither indicted nor heard in this matter. After thirty days in prison, Mr. Effiong was released on 26 August 2022. The incarceration was condemned by Amnesty International Nigeria which called on the Nigerian Authorities to immediately release Mr. Effiong on Twitter.^{xi} The Nigerian Bar Association reportedly did not support Mr. Effiong, asking him instead to apologize to the judge.

F. Role of the Bar Association

20. Basic Principle 24 states that *“Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.”*
21. The Nigerian Bar Association (NBA) with roughly 140,000 lawyers is active across 36 states in Nigeria. As per the Supreme Court of Nigeria, all lawyers must have their legal stamp for all legal operations, which is the responsibility of the Bar Association. The NBA is committed to protecting human rights, the rule of law and good governance in Nigeria.^{xii} The Legal Practitioners Act is the main legal framework that governs the standards for legal education and training, professional conduct and discipline for lawyers that the NBA deals with.
22. The NBA does not have any specific program to ensure accountability for attacks on lawyers. Lawyers have informed L4L and IBAHRI that they do not always feel supported by their respective Bar Associations and Bar Councils when they face harassment in relation to the work they conduct in their capacity as a lawyer. L4L and IBAHRI received reports that the NBA does not treat lawyers equally, as they do speak out about harassment of some lawyers, and choose to not to interfere in harassment of more activist or outspoken lawyers.

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23. Furthermore, L4L and IBAHRI received information that lawyers who plead for a system change in the bar get harassed as well. This happens in the form of being excluded from events or speaking opportunities, to even disciplinary measures.

F. Recommendations to the Government of Nigeria

- **Take measures to ensure sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of lawyers and their effective protection against any form of retaliation in connection with their professional activity;**
- **Take effective measures necessary to ensure that crimes, harassment, and other violations against lawyers are effectively investigated and publicly condemned at all levels and that the perpetrators of such acts are prosecuted;**
- **Refrain from any actions that may constitute harassment, persecution, or undue interference in the work of lawyers, including their criminal prosecution on improper grounds such as the expression of critical views or the nature of the cases that the lawyer is involved in.**

ⁱ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, Article 14, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

ⁱⁱ The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on September 7, 1990. Subsequently, the UN General Assembly welcomed the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted on December 18, 1990.

ⁱⁱⁱ UN Human Rights Council, Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, A/HRC/RES/35/12, 22 June 2017, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/L.20.

^{iv} During its 29th session (from 15 June – 3 July 2015), the Human Rights Council adopted without a vote a resolution on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers. While recalling the Basic Principles on the Role of Lawyers and condemning the increasingly frequent attacks on the independence of lawyers, in particular threats, intimidation and interference in the discharge of their professional functions, the Human Rights Council reminded all States of their duty "to uphold the integrity of [lawyers] and to protect them, as well as their families and professional associates, against all forms of violence, threat, retaliation, intimidation and harassment resulting from the discharging of their functions, and to condemn such acts and bring the perpetrators to justice". See UN Human Rights Council, Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, A/HRC/RES/29/6, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/29/L.11.

^v Report of the Working Group on the Universal Periodic Review of Nigeria A/HRC/40/7, 6 November 2018 and A/HRC/40/7/Add.1, 8 February 2019.

^{vi} Recommendation 148.159 Continue to strengthen the legal and institutional frameworks to improve the effectiveness, accessibility, accountability, transparency and fairness of the justice system (South Africa);

Recommendation 148.190 (Norway): Create and maintain a safe and enabling environment for human rights defenders, including those working on environmental issues;

Recommendation 148.162 (Afghanistan): Further guarantee the impartiality and effectiveness of the judicial system.

^{vii} Recommendation 148.184 (Italy) Protect and promote freedom of expression, association and peaceful assembly in order to create a safe and favourable environment for human rights defenders, journalists and civil society;

Recommendation 148.185 Ensure that the fundamental rights to freedom of association and peaceful assembly are respected and protected for all Nigerians without distinction of any kind and in accordance with the Constitution (Canada).

^{viii} United Nations, *Basic Principles on the Role of Lawyers*, Principle 17. 1990.

^{ix} Ibid.

^x Section 133 (1) of the *Nigeria: Criminal Code Act*, Cap C38 LFN 2004, 1 June 1916, accessed on 18-7-2023.

^{xi} Amnesty Nigeria, "Amnesty International calls on the Nigerian Authorities to immediately release Inibehe Effiong @InibeheEffiong from arbitrary detention and drop all charges against him as due process was not followed in his committal." Twitter, August 23, 2022, 8:13 PM, <https://twitter.com/AmnestyNigeria/status/1562140954823479296>.

^{xii} Nigerian Bar Association. About us. Retrieved [11.07.2022], from https://www.nigerianbar.org.ng/about_us.