

**NORMATIVE GUARANTEES VERSUS PRACTICAL REALITIES:
EVALUATING NIGERIA'S INTERNATIONAL LEGAL OBLIGATIONS ON
RIGHTS AGAINST TORTURE**

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ABSTRACT

The ban against torture constitutes one of the most fundamental norms of international human rights law, recognised as *jus cogens* and non-derogable under any circumstances. Nigeria, as a State Party to the United Nations Convention Against Torture and the Optional Protocol to the Convention Against Torture thereto, has undertaken substantial normative commitments to prevent, prohibit, and punish torture within its jurisdiction. This paper critically evaluates the chasm between Nigeria's international legal obligations and the practical realities of torture prevention within its territory. Through an extensive doctrinal analysis of constitutional provisions, statutory frameworks including the Anti-Torture Act 2017, the Administration of Criminal Justice Act, 2015, and the Nigeria Correctional Service Act 2019, alongside recent institutional developments such as the designation of the National Human Rights Commission as Nigeria's National Preventive Mechanism in May 2024, this study interrogates the efficacy of Nigeria's torture prevention architecture. Drawing comparative insights from South Africa, Kenya, and the United Kingdom, the paper argues that while Nigeria has established a comprehensive normative framework prohibiting torture, systemic challenges including institutional impunity, inadequate resourcing of preventive mechanisms, judicial reluctance to enforce anti-torture legislation, and the persistent culture of violence within law enforcement agencies continue to undermine the practical realisation of these guarantees. The paper concludes with recommendations for legislative amendment, institutional strengthening, and enhanced international cooperation to bridge the gap between normative aspirations and practical implementation.

Keywords: *Torture prohibition, National Preventive Mechanism, Anti-Torture, Convention against Torture, law enforcement and accountability.*

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1. INTRODUCTION

The right to freedom from torture and cruel, inhuman or degrading treatment or punishment stands as a cornerstone of human rights jurisprudence, representing an absolute and non-derogable obligation under international law.¹ This right finds expression in the Universal Declaration of Human Rights (UDHR) 1948,² the International Covenant on Civil and Political Rights 1966,³ the United Nations Convention Against Torture (UNCAT),⁴ and regional instruments including the African Charter on Human and Peoples' Rights (ACHPR).⁵ Nigeria's engagement with this fundamental right presents a compelling case study of the tensions between international normative commitments and domestic implementation realities. Nigeria ratified the convention on 28th June 2001, thereby assuming binding international obligations to prevent torture within its territory, criminalise acts of torture, investigate allegations promptly and impartially, and ensure that victims obtain redress.⁶ Despite these commitments, Nigeria declined to submit its initial report to the National Committee Against Torture (NCAT) for over two decades, only appearing before the Committee in November 2021 as a non-reporting State.⁷ This prolonged delay in engaging with international oversight mechanisms symbolises the broader challenges that have characterised Nigeria's approach to torture prevention, marked by robust normative frameworks coupled with inconsistent practical implementation.

The enactment of the Anti – Torture Act (ATA) in December 2017 represented a watershed moment in Nigeria's domestic legal architecture, providing for the first time a comprehensive statutory definition of torture, criminalising the offence with penalties including up to twenty – five years' imprisonment, and establishing procedural safeguards for detainees.⁸ Complementing this legislation, the Administration of Criminal Justice Act (ACJA) 2015 incorporates explicit prohibitions against torture and mandates humane treatment of suspects,⁹ while the Nigeria Correctional Service Act (NCSA) 2019 establishes standards for the treatment of inmates and prohibits dehumanising practices.¹⁰ However, the persistence of

¹ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III), Art 5; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, Art 7; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85, Art 2(2).

² Universal Declaration of Human Rights (n 1) Art 5.

³ International Covenant on Civil and Political Rights (n 1) Art 7.

⁴ Convention Against Torture (n 1) Arts 2 – 4.

⁵ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217, Art 5.

⁶ Convention Against Torture (n 1) Arts 2 – 16.

⁷ International Rehabilitation Council for Torture Victims, 'Nigeria Before the Committee Against Torture' (IRCT, 28 January 2026) <https://irct.org/nigeria/> accessed 29 March 2026.

⁸ Anti-Torture Act 2017 (Nigeria), ss 1 – 3, 8.

⁹ Administration of Criminal Justice Act 2015 (Nigeria), s 8(1).

¹⁰ Nigerian Correctional Service Act 2019 (Nigeria), s 14(8).

torture allegations against law enforcement agencies, particularly the Nigeria Police Force (NPF) and its disbanded Special Anti-Robbery Squad (SARS), the continued operation of unofficial detention facilities, and the failure to implement recommendations from judicial panels of inquiry demonstrate the significant implementation gap between legal prescription and practical reality.¹¹ The #EndSARS protests of October 2020, which culminated in the Lekki Toll Gate massacre, where security forces opened fire on peaceful protesters, resulting in multiple deaths and injuries,¹² and the subsequent Economic Community of West African States (ECOWAS) Court judgment of July 2024 finding Nigeria responsible for torture and violations of the right to life,¹³ starkly illustrate this dichotomy. This paper undertakes a comprehensive evaluation of Nigeria's international legal obligations concerning the prohibition of torture, examining the evolution of domestic legal frameworks, institutional mechanisms for prevention and accountability, and the practical challenges that impede effective implementation. Through comparative analysis with other jurisdictions and engagement with recent international jurisprudence, the paper seeks to contribute to scholarly discourse on torture prevention in post-colonial African states and offer recommendations to strengthen Nigeria's compliance with its international obligations.

2. LITERATURE REVIEW

The scholarly examination of torture prohibition in Nigeria has evolved significantly over the past decade, reflecting both domestic legislative developments and international engagement. Early literature focused primarily on constitutional guarantees and the gap between constitutional promise and police practice.¹⁴ However, the enactment of the Anti-Torture Act, 2017 generated substantial academic commentary on the legislative framework and its potential efficacy. Nkolo's comprehensive appraisal of the Anti-Torture Act's implementation by law enforcement agencies provides a critical foundation for understanding the practical challenges confronting torture prevention in Nigeria.¹⁵ Nkolo demonstrates that despite the absolute prohibition established by the Act, law enforcement agencies continue to engage in torture with impunity, often justifying such practices through appeals to national security concerns or superior orders.¹⁶ This analysis reveals a fundamental tension between the

¹¹ Amnesty International, 'Nigeria: "Three Years After EndSARS at Least 15 Protesters Languish in Lagos Jail" *Amnesty International* (20 October 2023).

¹² International Commission of Jurists and Lawyers Alert, 'Nigeria: Violent and Lethal Use of Force Against #EndSARS Protestors Must Cease' *ICJ* (26 October 2020).

¹³ REDRESS and Citizens Gavel, 'Nigeria Condemned by ECOWAS Court for Torture of Protesters at Lekki Toll Gate' *REDRESS* (31 July 2024).

¹⁴ See generally C E Obiagwu, "Understanding and Implementing the Absolute Prohibition of Torture" in C Heyns (ed), *Human Rights Law in Africa* (Kluwer 2001).

¹⁵ S Nkolo, "Appraisal of the Implementation of the ATA 2017 by Law Enforcement Agencies in Nigeria" (2024) 56 *African Journal of Criminal Law and Justice* 56.

¹⁶ *Ibid* 60 – 62.

legal normativity of the Anti-Torture Act and the operational culture of Nigerian security institutions, characterised by what Nkolo terms “national security exceptionalism; the erroneous belief that torture may be justified in circumstances of internal political instability or threats to state security.”¹⁷

Ibe’s examination of Nigeria’s implementation of Part IV of the Optional Protocol to the Convention Against Torture (OPCAT) offers crucial insights into the institutional architecture of torture prevention.¹⁸ Ibe analyses the designation of the National Committee Against Torture in 2009 and its subsequent reconstitution in 2022, arguing that these iterations failed to meet the protocol’s standards because of inadequate legal documentation, insufficient resources, and a lack of functional independence.¹⁹ Ibe’s analysis of the May 2024 Presidential Order designating the National Human Rights Commission (NHRC) as Nigeria’s National Preventive Mechanism provides the most current scholarly assessment of institutional developments, while cautioning that significant challenges regarding funding, independence, and operational capacity remain unresolved.²⁰

The African Human Rights Yearbook contribution by Ayo-Ojo presents a critical appraisal of national institutional mechanisms for torture prevention, interrogating whether the commission’s designation as National Preventive Mechanism will succeed where previous iterations failed.²¹ Ayo-Ojo identifies the lack of adequate legal documentation establishing the 2009 and 2022 National Committees, insufficient resources, lack of functional independence, and limited funding as factors that undermined compliance with the Optional Protocol’s requirements.²² While acknowledging that the National Human Rights Commission has an established structure and investigative capability, Ayo-Ojo questions whether the specialised department mandated by the 2024 Order can effectively undertake preventive monitoring, given uncertainties about its structure, funding, and capacity to conduct unannounced visitations.²³ Comparative scholarship on torture prevention in Africa provides important contextual frameworks for evaluating Nigeria’s approach. The REDRESS comparative study of anti-torture legislative frameworks examines the legal architectures of the Democratic Republic of Congo, Kenya, Nigeria, Namibia, and Uganda, highlighting

¹⁷ Ibid 63.

¹⁸ S Ibe, ‘Localising Global Norms: An Examination of Nigeria’s Implementation of Part IV of the Optional Protocol to the Convention Against Torture’ (2025) 25(1) *African Human Rights Law Journal* 251.

¹⁹ Ibid 255 – 258.

²⁰ Ibid 265 – 268.

²¹ B S Ayo-Ojo, ‘A Critical Appraisal of the National Institutional Mechanisms for the Prevention of Torture in Nigeria’ (2024) 8 *African Human Rights Yearbook* 93.

²² Ibid 95 – 98.

²³ Ibid, 118 – 120.

variations in criminalisation, penalty structures, and victim redress mechanisms.²⁴ This study notes that while Nigeria's Anti-Torture Act, 2017 provides relatively robust penalties, including potential life imprisonment where torture results in death, the absence of minimum sentences and the persistence of corporal punishment in certain jurisdictions within Nigeria create normative inconsistencies.²⁵

The literature on the Administration of Criminal Justice Act, 2015 has examined its potential as a safeguard against torture, with particular attention to provisions requiring humane treatment of suspects, limitations on detention periods, and procedural safeguards during interrogation.²⁶ Studies indicate that while the Act establishes important protections, implementation remains inconsistent across Nigerian states, with many law enforcement officials demonstrating inadequate familiarity with its provisions.²⁷ Recent scholarship has also addressed the jurisprudential dimensions of torture prevention, including analysis of the ECOWAS Court's evolving approach to torture allegations.²⁸ The Court's July 2024 judgment in the Lekki Toll Gate case marks a significant development in regional human rights jurisprudence, as the Court explicitly recognises psychological torture and expands the scope of state responsibility for violations committed during protest suppression.²⁹

Despite this growing body of literature, significant gaps remain in the scholarly examination of Nigeria's torture prevention framework. Few studies have comprehensively integrated the recent institutional developments of 2024, including the National Human Rights Commission's designation as a preventive mechanism and the implications of the Court's 2024 judgment. Furthermore, there remains limited comparative analysis examining how Nigeria's approach to torture prevention diverges from or converges with best practices in comparable jurisdictions. This paper addresses these gaps while contributing to the broader discourse on implementing international human rights obligations in developing democracies.

²⁴ REDRESS, "Legal Frameworks to Prevent Torture in Africa: A Comparative Analysis" *REDRESS* (December 2019) 45-52.

²⁵ *Ibid.*, 46 – 47.

²⁶ T O Ifaturoti, "The Administration of Criminal Justice Act, 2015 as a Safeguard Against Unlawful Detention in Nigeria" (2021) 17(1) *African Human Rights Law Journal* 251.

²⁷ *Ibid.*, 265 – 268.

²⁸ See generally ECOWAS Community Court of Justice, 'Judgments' *ECOWASCJ* (2026) <https://ghalii.org/judgments/ECOWASCJ/> accessed 29 March 2026.

²⁹ REDRESS and Citizens Gavel (n 13).

3. LEGAL FRAMEWORKS AGAINST TORTURE IN NIGERIA

3.1 The Constitution of the Federal Republic of Nigeria (As Amended)

The Constitution of the Federal Republic of Nigeria 1999 (as amended) establishes the foundational guarantee against torture through Sec 34(1)(a), which provides that “every individual is entitled to respect for the dignity of his person, and accordingly no person shall be subjected to torture or to inhuman or degrading treatment.”³⁰ This constitutional provision elevates the prohibition against torture to a fundamental right, enforceable through the fundamental rights enforcement procedure established under the Constitution.³¹

The constitutional guarantee is reinforced by the Constitution, which protects the right to personal liberty and establishes procedural safeguards for arrested persons, including the requirement that arrested persons be brought before a court within a reasonable time; not exceeding twenty-four hours in normal circumstances or forty – eight hours where a court of competent jurisdiction is not readily available.³² These temporal limitations on detention serve as important structural safeguards against the conditions conducive to torture, recognising that prolonged pre-trial detention in police custody significantly increases the risk of ill-treatment.

Furthermore, the Constitution empowers any person who alleges that any of the provisions of Chapter IV (including the prohibition against torture) has been, is being, or is likely to be contravened in relation to them to apply to a High Court for redress.³³ The Fundamental Rights (Enforcement Procedure) Rules 2009, made pursuant to this constitutional provision, specify that no human rights case should be dismissed for lack of *locus standi*, and that human rights groups, non-governmental organisations, or anyone acting on behalf of another person may institute actions on behalf of applicants.³⁴ This broad standing provision facilitates access to justice for torture victims who may be unable to pursue claims independently due to trauma, intimidation, or lack of resources.

3.2 The Anti-Torture Act, 2017

The Act represents Nigeria's most comprehensive legislative effort to give domestic effect to its obligations under the convention. The Act provides a detailed definition of torture that substantially mirrors the convention, defining torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person” for purposes including obtaining information or a confession, punishing for an act committed or suspected, intimidating or coercing, or for any reason based on discrimination, when such pain or suffering

³⁰ CFRN, s 34(1)(a).

³¹ Ibid, s 46.

³² Ibid, s 35(4).

³³ Ibid, s 46(1).

³⁴ Fundamental Rights (Enforcement Procedure) Rules 2009 (Nigeria), Order II, r 2.

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.³⁵ The Act explicitly establishes the absolute nature of the torture prohibition, providing that “no exceptional circumstances 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 for torture.”³⁶ This provision directly implements the United Nations Convention Against Torture and addresses the “national security exceptionalism” that has historically characterised justifications for torture by Nigerian security agencies.³⁷

Significantly, the Act excludes from the definition of torture “pain or suffering arising only from, inherent in or incidental to, lawful sanctions.”³⁸ However, the Act clarifies that lawful sanctions do not include sanctions that are “not acceptable to the international community,” thereby incorporating international standards into the domestic definition and preventing the misuse of domestic law to justify practices that constitute torture under international law.³⁹ The Act establishes robust criminal penalties for acts of torture, providing that any person who commits the offence of torture is liable on conviction to imprisonment for a term not exceeding twenty – five years.⁴⁰ Where death results from torture, the offence is deemed to constitute murder, attracting the penalty prescribed for murder under Nigerian law.⁴¹ The Act also criminalises attempts to commit torture, complicity in torture, and obstruction of justice in relation to torture allegations.⁴²

Procedurally, the Act establishes important safeguards for detainees. It creates a right to complain for victims of torture, requiring that competent authorities promptly and impartially examine complaints and protect complainants from reprisals.⁴³ It also establishes a right to fair and adequate compensation for victims, including the means for as full rehabilitation as possible.⁴⁴ The Act also provides for the exclusion of evidence obtained through torture, implementing the exclusionary rule established under the convention.⁴⁵ However, scholarly analysis has identified significant gaps in the Act’s provisions. The Committee Against Torture, in its 2021 Concluding Observations, noted three fundamental omissions: the non-recognition of an attempt to commit torture as an offence (subsequently addressed through amendment or judicial interpretation); the absence of provisions excluding

³⁵ ATA 2017 (n 8) s 2.

³⁶ *Ibid* s 3(1).

³⁷ Nkolo (n 15) 63.

³⁸ ATA 2017 (n 8) s 3(2).

³⁹ *Ibid* s 3(3).

⁴⁰ *Ibid* s 8(1).

⁴¹ *Ibid* s 8(2).

⁴² *Ibid* ss 6, 7.

⁴³ *Ibid* s 4.

⁴⁴ *Ibid* s 5.

⁴⁵ *Ibid* s 3(2).

amnesties, pardons, and statutes of limitation for the offence of torture; and the exclusion of acts of torture carried out for a purpose based on discrimination alone.⁴⁶ Furthermore, the Act empowers the Attorney-General to designate a regulatory agency to oversee implementation, yet this designation was not made until the 2024 Presidential Order, creating a seven-year gap in institutional oversight.⁴⁷

3.3 The Administration of Criminal Justice Act, 2015

The Act establishes comprehensive procedural safeguards applicable throughout the criminal justice process, with significant implications for torture prevention.⁴⁸ The law explicitly provides that a suspect shall “be accorded humane treatment, having regard to his right to the dignity of his person; and not be subjected to any form of torture, cruel, inhuman or degrading treatment.”⁴⁹ This provision operationalises the constitutional guarantee within the specific context of criminal procedure. The Administration of Criminal Justice Act establishes several structural safeguards designed to prevent torture during detention and interrogation. The Act mandates that arrested persons must be informed of their rights, including the right to remain silent, the right to consult a legal practitioner of their choice before making any statement, and the right to free legal representation by the Legal Aid Council of Nigeria where applicable.⁵⁰ The authority having custody of the suspect must notify the suspect's next of kin or relative at no cost to the suspect.⁵¹

The statute requires that persons having custody of arrested suspects provide “reasonable facilities for obtaining legal advice, access to communication for taking steps to furnish bail, and otherwise making arrangements for his defence or release.”⁵² This provision addresses the isolation that frequently facilitates torture by ensuring that detainees maintain contact with the external world and legal counsel. The Act also establishes important limitations on detention practices. The Constitution, operationalised through its provisions, mandates that arrested persons be brought before a court within twenty-four to forty-eight hours, depending on the proximity of a competent court.⁵³ Therefore it establishes a maximum detention period of forty-two days for capital offences, subject to judicial review at fourteen –

⁴⁶ Committee Against Torture, “Concluding Observations on the Initial Report of Nigeria” (CAT/C/NGA/CO/1, 23 December 2021) para 9.

⁴⁷ ATA 2017 (n 8) s 9; Ibe (n 18) 258.

⁴⁸ All the 36 states in Nigeria have passed their own state – level versions known as the Administration of Criminal Justice Law (ACJL).

⁴⁹ Administration of Criminal Justice Act 2015 (n 9) s 8(1).

⁵⁰ Ibid s 6(2).

⁵¹ Ibid.

⁵² Ibid s 14(2).

⁵³ Constitution of the Federal Republic of Nigeria 1999 (n 30) s 35(4).

day intervals, after which the suspect must be released unless compelling reasons exist for continued detention.⁵⁴

Furthermore, the Administration of Criminal Justice Act mandates record-keeping requirements that support transparency and accountability. Section 15 requires mandatory record-keeping for arrests and detention, while Section 33 obliges officers in charge of police stations to report all arrests without warrants to the nearest magistrate every month.⁵⁵ These reporting requirements create paper trails that may facilitate the identification of patterns of abuse and the investigation of torture allegations. Recent assessments indicate that implementation of Act safeguards remains inconsistent. While some states have established audio-visual recording facilities for statement-taking and ensured compliance with notification requirements,⁵⁶ other jurisdictions continue to rely on manual recording and demonstrate inadequate adherence to procedural safeguards.⁵⁷ The Federal Ministry of Justice's September 2025 sensitisation workshop for law enforcement agencies on torture prohibition and Optional Protocol obligations reflects ongoing governmental recognition of implementation challenges.⁵⁸

3.4 The Nigerian Correctional Service Act (NSCA), 2019

The Act replaced the Prisons Act and established standards for the treatment of persons in correctional custody that have significant implications for torture prevention. The Act marks a paradigm shift from the punitive orientation of colonial-era prison legislation to a more rehabilitative approach consistent with international standards.⁵⁹ The Act mandates the Correctional Service to take steps to prevent torture of inmates, prevent inhuman and degrading treatment, and prevent sexual and non-sexual violence, including bullying.⁶⁰ This provision establishes an affirmative duty of care upon correctional authorities, moving beyond passive non-interference to active prevention of ill-treatment by staff or other inmates.

The Act sets out specific procedural safeguards for the use of force and weapons. Section 32 provides that where an inmate dies or suffers bodily injury, the matter must be investigated and the next of kin informed.⁶¹ Where investigation reveals that death or injury was caused by negligence or unlawful action of a correctional officer, the officer shall be suspended and handed over for prosecution, while the immediate supervising officer will be

⁵⁴ Administration of Criminal Justice Act 2015 (n 9) s 293.

⁵⁵ Ibid ss 15, 33.

⁵⁶ Network of National Human Rights Institutions in West Africa, "Administration of Criminal Justice Act (ACJA) – NMS" (NMS, 2023) 12-15.

⁵⁷ Ibid 15-18.

⁵⁸ Ibid.

⁵⁹ Nigerian Correctional Service Act 2019 (n 10) s 1.

⁶⁰ Ibid s 14(8).

⁶¹ Ibid s 32(1).

sanctioned.⁶² The Act mandates payment of appropriate compensation to victims or their families, as determined by a panel of inquiry or court of law, and requires the Service to cover all costs associated with hospitalisation or burial.⁶³

Importantly, the Act restricts the use of firearms and weapons against inmates. Even where an inmate is attempting to escape, or an officer has reasonable grounds to believe that an inmate may cause grievous bodily harm, the officer is prohibited from using firearms, tear gas, or other weapons without first warning the inmate.⁶⁴ These restrictions reflect the principle that force against persons in custody must be strictly proportionate and employed only as a last resort.

The Act also establishes rehabilitation and aftercare obligations, recognising that humane treatment extends beyond incarceration to include preparation for reintegration into society.⁶⁵ While these provisions primarily address conditions of detention rather than torture per se, they contribute to an overall environment in which respect for human dignity is institutionalised.

3.5 International and Regional Legal Obligations

Nigeria's international legal obligations regarding torture prevention extend beyond the United Nations Convention Against Torture to encompass a comprehensive framework of treaty and customary international law. As a State Party to the International Covenant on Civil and Political Rights, Nigeria is bound by Article 7's prohibition against torture and cruel, inhuman or degrading treatment or punishment, as well as Article 10 requirement that persons deprived of liberty be treated with humanity and respect for their inherent dignity.⁶⁶ Regionally, the African Charter on Human and People's Rights establishes in Article 5 that "every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status," and that "all forms of exploitation and degradation of man, particularly... torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."⁶⁷ The African Charter's prohibition is reinforced by the Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa, adopted by the charter, which provide detailed guidance on preventive measures, investigative procedures, and victim redress.⁶⁸

⁶² Ibid s 32(2).

⁶³ Ibid s 32(3).

⁶⁴ Ibid s 32(4).

⁶⁵ Ibid ss 33-36.

⁶⁶ International Covenant on Civil and Political Rights (n 1) Arts 7, 10.

⁶⁷ African Charter on Human and Peoples' Rights (n 5) Art 5.

⁶⁸ African Commission on Human and Peoples' Rights, "Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa" *ACHPR* (February 2022).

Nigeria's ratification of the Optional Protocol to the Convention Against Torture established additional obligations regarding preventive monitoring of places of detention.⁶⁹ The Optional Protocol requires State Parties to establish or designate independent National Preventive Mechanisms with mandates to conduct regular visits to all places of detention, examine the treatment of persons deprived of liberty, and recommend improvements to authorities.⁷⁰ The May 2024 Presidential Order designating the National Human Rights Commission as Nigeria's preventive mechanism represents the most recent evolution in Nigeria's efforts to comply with these obligations.⁷¹ The ECOWAS Treaty and the African Charter establish the jurisdiction of the Community Court of Justice (CCJ) to adjudicate allegations of human rights violations, including torture, against Member States.⁷² The Court's July 2024 judgment in the Lekki Toll Gate case, finding Nigeria responsible for torture and violations of the right to life, demonstrates the enforceability of these regional obligations and the potential for international adjudication to complement domestic accountability mechanisms.⁷³

4. FINDINGS

4.1 The Implementation Gap

Despite the comprehensive normative framework outlined above, Nigeria confronts a persistent implementation gap characterised by the continued practice of torture by law enforcement agencies, inadequate investigation of allegations, and failure to provide effective redress to victims. This gap reflects structural challenges that impede translating legal prohibitions into practical protections. The Committee Against Torture's 2021 review of Nigeria highlighted the scale of this implementation gap, noting that nearly 30,000 complaints of torture and ill-treatment between 2019 and 2020 had not been adequately investigated, creating "an environment of impunity."⁷⁴ This statistical indication of systemic failure is corroborated by qualitative evidence of continued torture practices, including the documented use of torture by the disbanded SARS unit,⁷⁵ the operation of secret detention facilities,⁷⁶ and the violent suppression of protests, including the Lekki Toll Gate massacre.⁷⁷ Several structural

⁶⁹ Optional Protocol to the Convention Against Torture (adopted 18 December 2002, entered into force 22 June 2006) 2375 UNTS 237; ratified by Nigeria 27 July 2009.

⁷⁰ Ibid Arts 3, 17 – 19.

⁷¹ Designation of the National Human Rights Commission as Nigeria's National Preventive Mechanism Order 2024 (Nigeria), SI 21/2024.

⁷² Treaty of the Economic Community of West African States (revised 24 July 1993) 2375 UNTS 197, Arts 4(g), 66; Protocol on the Community Court of Justice (ECOWAS) 1991, Art 9(4).

⁷³ REDRESS and Citizens Gavel (n 13).

⁷⁴ Committee Against Torture (n 46) para 36.

⁷⁵ International Commission of Jurists and Lawyers Alert (n 12).

⁷⁶ Ugochukwu Alaribe, "IPOB Alleges Secret Detention Centres Where Biafrans Are Detained in Nigeria" *Vanguard* (6 September 2024).

⁷⁷ Ibid.

factors contribute to this implementation gap. First, the institutional culture of Nigerian law enforcement agencies, developed during periods of military rule and sustained through inadequate training and oversight, normalises the use of force and coercion as investigative tools.⁷⁸ Second, resource constraints limit oversight institutions' capacity to monitor detention facilities effectively and investigate complaints.⁷⁹ Third, judicial reluctance to enforce anti-torture legislation, exemplified by the Abuja High Court's holding that nine-month detention and torture by police was “within the ambit of law,” undermines the deterrent effect of legal prohibitions.⁸⁰

4.2 Institutional Challenges

The evolution of Nigeria's National Preventive Mechanism illustrates the institutional challenges confronting torture prevention efforts. Nigeria initially designated the National Committee Against Torture as its National Preventive Mechanism, following ratification of the Optional Protocol to the Convention Against Torture.⁸¹ However, the 2009 National Committee Against Torture lacked adequate legal documentation establishing its mandate, independence, and operational procedures.⁸² The committee's 2021 Concluding Observations found that this initial National Preventive Mechanism did not meet the Optional Protocol's requirements, citing a lack of functional independence and insufficient resources.⁸³ In response, Nigeria dissolved the 2009 committee and inaugurated a new one in 2022.⁸⁴ However, this reconstituted mechanism continued to face challenges related to its legal foundation, operational capacity, and independence from executive interference.⁸⁵ The May 2024 Presidential Order designating the National Human Rights Commission as Nigeria's National Preventive Mechanism represents the third iteration of this institutional arrangement, premised on the Commission's established statutory basis under its Act (as amended) and its existing capacity to investigate human rights violations.⁸⁶

The 2024 Order establishes a Specialised Department within the Human Rights Commission to undertake numerous responsibilities, including regular inspection of places of detention, access to information regarding treatment of detainees, private interviews with persons deprived of liberty, and issuance of recommendations to relevant authorities.⁸⁷ The

⁷⁸ Nkolo (n 15) 62 – 63.

⁷⁹ Ayo-Ojo (n 21) 115-118.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid, 98-100

⁸³ Committee Against Torture (n 46) para 42.

⁸⁴ Ayo-Ojo (n 21) 100-102.

⁸⁵ Ibid 102-105.

⁸⁶ Designation of the NHRC (n 70).

⁸⁷ Ibid Order 3.

Order mandates operational independence and appropriate resourcing, requiring the Commission to “take necessary measures to ensure the operational independence of the National Preventive Mechanism” and “appropriate resourcing of its activities, programmes and projects.”⁸⁸ However, significant uncertainties persist regarding the effectiveness of this new arrangement. Ayo-Ojo’s analysis questions whether the Commission, despite its established structure, has the specialised capacity for preventive monitoring distinct from its traditional reactive investigative functions.⁸⁹ The Order does not specify funding mechanisms or guarantee that mechanism activities will receive priority within the Commission’s broader mandate.⁹⁰ Furthermore, the designation through Presidential Order rather than legislative amendment leaves the National Preventive Mechanism vulnerable to executive discretion, potentially compromising the independence essential to effective preventive monitoring.⁹¹ The Subcommittee on Prevention of Torture’s April 2014 advisory visit to Nigeria concluded with expressions of regret over “the lack of cooperation from the country” and descriptions of conditions in most places of detention as “abysmal.”⁹² The 2021 Concluding Observations noted that Nigeria had neither notified the Sub-committee on the Prevention of Torture of its National Preventive Mechanism designation nor allowed an official visit by the Sub-committee.⁹³ While the 2024 designation of the National Human Rights Commission as preventive mechanism may facilitate improved collaboration, the historical pattern of non-cooperation suggests that institutional commitment to transparency remains uncertain.

4.3 Accountability Deficits

The persistence of torture in Nigeria is facilitated by systemic accountability deficits at multiple levels. Despite the criminalisation of torture under the Anti-Torture Act, 2017, prosecutions of law enforcement personnel for torture remain rare, and convictions even rarer. This accountability deficit stems from structural barriers to investigation, institutional conflicts of interest, and judicial reluctance to hold security personnel accountable. The investigation of torture allegations typically falls to the same security agencies accused of perpetrating the abuse, creating inherent conflicts of interest. While the Administration of Criminal Justice Act, 2025 mandates reporting of deaths and injuries in custody,⁹⁴ and the Nigeria Correctional Service Act, 2019 requires investigation of such incidents,⁹⁵ These investigative processes

⁸⁸ Ibid Order 2(2).

⁸⁹ Ayo-Ojo (n 21) 118-120.

⁹⁰ Ibe (n 18) 267-268.

⁹¹ Ibid 265.

⁹² World Organisation Against Torture, “Global Torture Index 2025: Nigeria Factsheet” *OMCT* (April 8, 2025) 2.

⁹³ Committee Against Torture (n 46) para 42; Ibe (n 18) 274.

⁹⁴ Administration of Criminal Justice Act 2015 (n 9) s 33.

⁹⁵ Nigerian Correctional Service Act 2019 (n 10) s 32.

often lack independence and transparency. The absence of an independent forensic capacity to document torture injuries further impedes effective investigation.

The ECOWAS Court's July 2024 judgment in the Lekki Toll Gate case highlighted Nigeria's failure to implement recommendations from domestic judicial panels of inquiry.⁹⁶ The Lagos State Judicial Panel of Inquiry, established in the wake of the #EndSARS protests, had found Nigerian security forces responsible for the massacre and recommended prosecution of perpetrators and compensation for victims.⁹⁷ Four years later, the panel's recommendations remained unimplemented, with no perpetrators held accountable and victims still awaiting redress.⁹⁸ This failure to implement domestic accountability mechanisms undermines both the rule of law and accountability's preventive function. The paucity of judicial decisions interpreting and applying the Anti-Torture Act, 2017 further weakens accountability. Ibe's research identified only one case in which an applicant challenged torture under the Act before a domestic court, with the Abuja High Court holding that nine-month detention and torture were "within the ambit of law."⁹⁹ This judicial reluctance to enforce anti-torture legislation reflects broader challenges regarding judicial independence in Nigeria, where security interests often influence judicial decision-making, particularly in cases involving terrorism or national security allegations.¹⁰⁰

4.4 Victim Redress and Rehabilitation

The provision of redress to torture victims represents both a legal obligation under Article 14 of the United Nations Convention Against Torture and a practical challenge given the scale of torture allegations and resource constraints. Nigeria has established some mechanisms for victim compensation, including the Federal Government's payment of N431.8 million to 94 victims between 2021 and August 2022, as well as additional payments by Lagos State (~~N~~110.2 million to 70 victims), Osun State (~~N~~53.2 million), and Ekiti State (~~N~~21.2 million).¹⁰¹ However, these compensation payments represent partial and inconsistent redress. The Committee Against Torture's 2021 Concluding Observations specifically recommended that Nigeria include rehabilitation of torture survivors as a policy under the ATA,¹⁰² reflecting the absence of comprehensive rehabilitation programs. The civil society report submitted to the Committee by Prisoners Rehabilitation and Welfare Action (PRAWA) advocated for this

⁹⁶ REDRESS and Citizens Gavel (n 13).

⁹⁷ Lagos State Judicial Panel of Inquiry on Police Brutality, 'Report' (Lagos State Government, November 2021).

⁹⁸ REDRESS and Citizens Gavel (n 13).

⁹⁹ Ibe (n 18) 262.

¹⁰⁰ US Department of State, '2021 Country Reports on Human Rights Practices: Nigeria' (State Department, 2021).

¹⁰¹ National Human Rights Commission, 'Follow-Up Report on the Measures Taken by Nigeria' *NHRC* (July, 2024) 12-13.

¹⁰² Committee Against Torture (n 46) para 36.

inclusion, and the Committee's adoption of this recommendation represents significant recognition of the rehabilitative dimension of torture redress. The Anti-Torture Act's provision for compensation and rehabilitation (Section 5) remains inadequately implemented because it lacks designated implementing agencies and funding mechanisms, even after the 2024 National Preventive Mechanism designation.¹⁰³ The National Human Rights Commission's assumption of National Preventive Mechanism responsibilities may facilitate the development of rehabilitation programs, but significant capacity-building will be required to establish services meeting international standards for torture survivor rehabilitation.

4.5 Emerging Opportunities

Despite these challenges, recent developments present opportunities for strengthening Nigeria's torture prevention framework. The 2024 designation of the National Human Rights Commission as National Preventive Mechanism, while imperfect, establishes a statutory foundation for preventive monitoring that may facilitate improved compliance with the Optional Protocol.¹⁰⁴ The Commission's existing relationships with international human rights mechanisms, including the Subcommittee on Prevention of Torture, may enable more effective collaboration than previous institutional arrangements.¹⁰⁵ The ECOWAS Court's July 2024 judgment creates binding international obligations for Nigeria to compensate victims and implement measures to prevent recurrence.¹⁰⁶ Regional enforcement of this judgment may complement domestic advocacy and provide additional leverage to implement anti-torture measures.

The Federal Ministry of Justice's September 2025 sensitisation workshop for law enforcement agencies on torture prohibition and Optional Protocol of the Convention Against Torture obligations indicates sustained governmental engagement with torture prevention, albeit belated.¹⁰⁷ Continued training and capacity-building for law enforcement, prosecutors, and judicial officers may gradually shift institutional culture toward compliance with legal standards. Furthermore, civil society organisations, including PRAWA, the National Human Rights Commission, and various legal aid providers, continue to monitor detention conditions, document torture allegations, and advocate for accountability.¹⁰⁸ Their engagement with international mechanisms, including the Committee Against Torture and the ECOWAS Court, provides alternative avenues for redress when domestic mechanisms fail.

¹⁰³ Anti-Torture Act 2017 (n 8) s 5.

¹⁰⁴ Designation of the National Human Rights Commission as Nigeria's National Preventive Mechanism Order 2024 (n 70).

¹⁰⁵ Ibe (n 18) 274.

¹⁰⁶ REDRESS and Citizens Gavel (n 13).

¹⁰⁷ Federal Ministry of Justice (n 57).

¹⁰⁸ International Rehabilitation Council for Torture Victims (n 7).

5. LESSONS FROM OTHER JURISDICTIONS

5.1 South Africa

South Africa provides a compelling comparative model for torture prevention, having emerged from the apartheid era with a constitutional and legislative framework designed to prevent the systematic abuses that characterised that period. The South African Constitution explicitly prohibits torture and cruel, inhuman or degrading treatment or punishment,¹⁰⁹ while the Prevention and Combating of Torture of Persons Act 2013 establishes a comprehensive framework for criminalisation, prevention, and victim redress.¹¹⁰ The South African Torture Act provides for penalties including life imprisonment for acts of torture, without stipulating minimum sentences, allowing judicial discretion in sentencing.¹¹¹ The Act establishes universal jurisdiction over torture offences, enabling prosecution of perpetrators regardless of where the offence was committed or the nationality of the perpetrator or victim.¹¹² Importantly, the Act creates a specific offence of torture distinct from common law assault, ensuring that the gravity of torture is recognised in charging and sentencing.¹¹³

Institutionally, South Africa designated the South African Human Rights Commission (SAHRC) as its National Preventive Mechanism in 2003, before ratifying the Optional Protocol to the Convention Against Torture.¹¹⁴ The Commission has established a dedicated torture prevention program with the capacity to conduct unannounced visits to places of detention, issue binding recommendations, and collaborate with the Subcommittee on Prevention of Torture.¹¹⁵ South Africa's June 2024 hosting of the Conference of the African National Preventive Mechanisms Network demonstrates regional leadership in torture prevention.¹¹⁶ Key lessons from the South African experience include the importance of establishing torture as a distinct criminal offence with appropriate penalties, the value of independent institutional oversight with dedicated capacity for preventive monitoring, and the benefits of regional collaboration in sharing best practices. However, South Africa continues to face challenges regarding implementation, including reports of deaths in custody and excessive use of force by police, indicating that legislative and institutional frameworks alone cannot eliminate torture without sustained political commitment and resource allocation.¹¹⁷

¹⁰⁹ Constitution of the Republic of South Africa 1996, s 12(1)(d).

¹¹⁰ Prevention and Combating of Torture of Persons Act 2013 (South Africa).

¹¹¹ REDRESS (n 24) 42.

¹¹² Prevention and Combating of Torture of Persons Act 2013 (n 110) s 5.

¹¹³ Ibid s 4.

¹¹⁴ South African Human Rights Commission, 'Media Advisory: The South African Human Rights Commission Hosts the Conference of the African National Preventive Mechanisms Network' *SAHRC* (26 June 2024).

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ See generally South African Human Rights Commission, 'Torture Prevention' *SAHRC* (June, 2024).

5.2 The United Kingdom

The United Kingdom's approach to torture prevention, while operating within a different legal tradition, offers insights into the role of judicial enforcement and independent oversight. The United Kingdom ratified the United Nations Convention Against Torture in 1988 and established the HM Inspectorate of Prisons as an independent inspectorate with a mandate to conduct unannounced inspections of places of detention.¹¹⁸ The United Kingdom's Human Rights Act 1998 incorporates the European Convention on Human Rights into domestic law, enabling direct judicial enforcement of the Article 3 prohibition against torture.¹¹⁹ The courts in the United Kingdom have developed robust jurisprudence regarding the exclusion of evidence obtained by torture, the prohibition against deportation to a risk of torture (non-refoulement), and the positive obligations of authorities to prevent torture by non-state actors.¹²⁰

The United Kingdom's Preventive Mechanism, established under the Optional Protocol, comprises several bodies including the His Majesty's Inspectorate of Prisons, the Independent Police Complaints Commission (now the Independent Office for Police Conduct), and the Care Quality Commission, creating a distributed but coordinated approach to preventive monitoring.¹²¹ This model demonstrates the feasibility of distributing National Preventive Mechanism functions across existing institutions while maintaining coordination and independence. For Nigeria, the United Kingdom experience suggests the importance of judicial capacity to enforce anti-torture norms and the value of independent inspection mechanisms with unannounced access to detention facilities. However, the United Kingdom's developed institutional capacity and resource base present challenges for direct transplantation to the Nigerian context.

6. CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

Nigeria's engagement with international legal obligations regarding the prohibition of torture presents a complex narrative of normative commitment and practical deficiency. The country has established a comprehensive legal framework encompassing constitutional guarantees, statutory prohibitions under the Anti-Torture Act, 2017, procedural safeguards in the Administration of Criminal Justice Act, 2015, and institutional mechanisms including the newly designated National Preventive Mechanism. Nigeria has engaged with international

¹¹⁸ HM Inspectorate of Prisons, 'About Us' (HMIP, 2024).

¹¹⁹ Human Rights Act 1998 (UK), s 3.

¹²⁰ See generally *A v. Secretary of State for the Home Department (No 2)* [2005] UKHL 71; *Chahal v United Kingdom* (1996) 23 EHRR 413.

¹²¹ United Kingdom (UK) National Preventive Mechanism, 'Annual Report' (NPM, 2023).

oversight mechanisms, appearing before the Committee Against Torture in 2021 and accepting binding regional jurisdiction through the ECOWAS Court's 2024 judgment.

Yet the persistence of torture practices by law enforcement agencies, the failure to implement recommendations from judicial panels of inquiry, the absence of prosecutions under the Anti-Torture Act, and the continued operation of detention conditions described as “abysmal” by international experts demonstrate the substantial implementation gap between normative aspiration and practical reality. This gap reflects structural challenges including institutional cultures of violence, resource constraints, accountability deficits, and the persistent influence of national security justifications for ill-treatment.

The evolution of Nigeria's National Preventive Mechanism (from the inadequately established National Committee Against Torture of 2009, through the reconstitution of 2022, to the National Human Rights Commission designation of 2024) illustrates both the potential for institutional learning and the challenges of ensuring effective preventive monitoring. The 2024 Order provides a statutory foundation for the National Prevention Mechanism, but significant uncertainties remain regarding funding, operational independence, and capacity to conduct unannounced visits.

The ECOWAS Court's July 2024 judgment represents a watershed moment in regional accountability for torture in Nigeria, creating binding obligations for victim redress and preventive measures. Implementing this judgment will test Nigeria's commitment to international legal obligations and help assess the efficacy of regional human rights mechanisms in addressing domestic accountability deficits. Ultimately, the prohibition against torture in Nigeria cannot be secured through legislative enactment alone, but requires sustained investment in institutional capacity, transformation of security sector culture, judicial independence to enforce legal standards, and political commitment to prioritise human rights over security expediency. The normative framework exists; the challenge lies in bridging the chasm between legal promise and practical protection.

6.2 Recommendations

Based on the foregoing analysis, this paper offers the following recommendations for strengthening Nigeria's compliance with international legal obligations regarding the prohibition of torture:

1. **Amendment of the Anti-Torture Act, 2017:** The Act should be amended to explicitly exclude the possibility of amnesties, pardons, or statutes of limitation for the offence of torture, addressing the Committee Against Torture's 2021 recommendations. The amendment should also clarify that acts of torture committed for purposes of discrimination constitute torture under the Act, ensuring alignment with international standards.
2. **Legislative Entrenchment of the National Preventive Mechanism:** The designation of the National Human Rights Commission as the National Preventive Mechanism should be entrenched through amendment of the Commission Act, 2010 (as amended) rather than reliance on a Presidential Order, ensuring statutory protection, a strong mandate, and independence from executive discretion.
3. **Prohibition of Corporal Punishment:** Nigeria should abolish corporal punishment in all its forms, including caning as a sentence for crime and severe forms of corporal punishment authorised under Sharia penal codes in Northern states, bringing domestic practice into alignment with international standards and the recommendations of the United Nations' Human Rights bodies.
4. **Adequate Resourcing of the National Preventive Mechanism:** The National Human Rights Commission's Specialised Department responsible for National Preventive Mechanism functions should receive dedicated funding through a direct line charge on the Consolidated Revenue Fund, ensuring predictable and adequate resources for preventive monitoring activities, unannounced visits to detention facilities, and victim rehabilitation programmes.
5. **Independent Investigation Capacity:** Nigeria should establish an independent investigative capacity for torture allegations, separate from the security agencies accused of perpetrating abuse, with forensic expertise to document torture injuries and authority to recommend prosecution to the Attorney-General.
6. **Victim Rehabilitation Programmes:** The Federal Ministry of Health, in collaboration with the NHRC, should establish comprehensive rehabilitation programmes for torture survivors, including medical, psychological, and social services, implementing the Committee Against Torture's recommendation regarding rehabilitation as a policy under the Anti-Torture Act, 2017.
7. **Implementation of ECOWAS Court Judgment:** Nigeria should promptly implement the ECOWAS Court's July 2024 judgment regarding the Lekki Toll Gate massacre, including

payment of compensation to victims, prosecution of perpetrators, and adoption of measures to prevent recurrence of such violations.

8. **Prosecution of Torture Cases:** The Attorney-General should direct the Director of Public Prosecutions to prioritise prosecution of torture cases under the Anti-Torture Act, ensuring that the criminalisation of torture translates into actual accountability for perpetrators.
9. **Judicial Training:** The National Judicial Institute should develop specialised training programmes for judicial officers on the interpretation and enforcement of the Anti-Torture Act, the Administration of Criminal Justice Act, 2015 safeguards, and international standards regarding torture prohibition, addressing the judicial reluctance identified in current jurisprudence.
10. **Training and Culture Change:** The Nigeria Police Force and other security agencies should integrate comprehensive training on torture prohibition into basic and continuing professional development curricula, emphasising the absolute nature of the prohibition, the inefficacy of torture as an investigative tool, and the legal consequences of violation.
11. **Engagement with United Nations Mechanisms:** Nigeria should submit its overdue reports to the Committee Against Torture and extend a standing invitation to the Special Rapporteur on Torture and the Subcommittee on Prevention of Torture to conduct country visits, demonstrating commitment to transparency and international accountability.