



## Huri-Laws v. Nigeria

Comm. No. 225/98 (2000).

**Country:** Nigeria

**Region:** Africa

**Year:** 2000

**Court:** African Commission on Human and Peoples' Rights African Commission on Human and Peoples' Rights

**Health Topics:** Health care and health services, Mental health, Prisons

**Human Rights:** Freedom from torture and cruel, inhuman or degrading treatment, Freedom of association, Right of access to information, Right to due process/fair trial, Right to liberty and security of person, Right to property

### Facts

Huri-Laws, a non-governmental organization registered in Nigeria, filed on behalf of the Civil Liberties Organisation (CLO), another Nigerian organization based in Lagos, a complaint claiming that the Federal Military Government of Nigeria harassed and persecuted the latter's legal staff in various forms that violated provisions of the African Charter on Human and Peoples' Rights (Charter). Specifically, the Complainant alleged that agents of Nigeria's State Security Service (SSS) arbitrarily arrested a CLO attorney, Mr. Ogaga Ifowodo, during his reentry into Nigeria. The Complainant claimed that the SSS held him in unsanitary and degrading conditions where they tortured him, subjected him to intense interrogations and denied him access to medical attention. The Complainant also alleged that Mr. Ifowodo suffered mental trauma because he was not provided a reason for or the duration of his detention, as well as access to his family or an attorney. Therefore, the Complainant alleged that such treatment violated Mr. Ifowodo's right to freedom from torture and cruel, inhuman and degrading treatment under Article 5 of the Charter.

Additionally, the complainant alleged that SSS authorities temporarily detained five other CLO staff members at an SSS office and arrested and detained another one of the organization's attorneys in a prison 600 kilometers outside the city of Lagos. There, he was not given access to his family, medical attention or an attorney, according to the Complainant. Furthermore, the Complainant claimed that none of the victims received information about any charges against them. Therefore, the Complainant also claimed the Government of Nigeria also violated various civil liberty protections under Articles 6 (right to liberty and to the security of his person), 7 (right to due process), 9 (right to receive information), 10 (right to free association), 14 (right to property) and 26 (state's duty to guarantee the independence of the Courts) of the Charter.

The Complainant claimed that it had filed lawsuits regarding the alleged violations in the Federal High Court of Nigeria, but State Security Decree, No. 2 of 1984 (concerning the detention of persons) caused the domestic court to dismiss its claims. After confirming that the alleged victims had no possibility to exhaust local remedies, the African Commission had declared the complaint admissible at its 26th Ordinary Session.

### Decision and Reasoning

The Commission concluded that Nigeria therefore violated Mr. Ifowodo's right to freedom from torture and cruel, inhuman and degrading treatment under Article 5 of the Charter insofar as his detention caused him to suffer "health threatening conditions" without access to medical attention and mental trauma of not knowing the reason or duration of his detainment.

The Commission observed that Principle 1 of the UN Body of Principles for the Protection of All Persons under Any Forms of Detention or Imprisonment requires that all such person be treated "in a humane manner and with respect for the inherent dignity of the human person." Furthermore, Principle 6 of that instrument prohibits torture, cruel, inhuman, or degrading treatment or punishment in all forms and does not accept any justifications for derogation. Additionally, such treatment or punishment extends to the widest possible cases of physical or mental abuses.

The Commission also found that Nigeria further violated the civil liberty rights protected under Articles 6 (right to liberty and to the security of his person), 7(1)(a) and (d) (right to due process), 9 (right to receive information), 10(1) (right to freedom of association), 12(1) and (2) (right to freedom of movement and residence),

and 14 (right to property) of the Charter. Importantly, well-established principles of international law dictate that an improvement in government conduct does not relieve the present government of responsibility for past acts. Therefore, the government of Nigeria remained responsible for all the violations of the Charter.

### Decision Excerpts

"It is worth noting that the term "cruel, inhuman or degrading treatment or punishment" is to be interpreted so as to extend to the widest possible protection against abuses, whether physical or mental (See UN Body of Principles)." Para. 40.

"The prohibition of torture, cruel, inhuman or degrading treatment or punishment is absolute. However, as observed by the European Court of Human Rights in *Ireland v. United Kingdom* when called upon to decide on similar provision of the European Convention on Human Rights "the treatment prohibited under Article 3 of the Convention is that which attains a minimum level of severity and the assessment of this minimum is, in the nature of things, relative. It depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim etc." (Judgement of 18th January 1987, series A no. 25 para. 162; see also the European Commission on Human Rights decision in *Jose Antonio URRUTIKOETXEA v. France*, Decision of 5th December 1996, p. 157). The treatment meted out to the victim in this case constitutes a breach of the provision of Article 5 of the Charter and the relevant international human rights instruments cited above. Also the denial of medical attention under health threatening conditions and access with the outside world do not fall into the province of "the respect of the dignity inherent in a human being and to the recognition of his legal status", nor is it in line with the requirement of Principles 1 and 6 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. This, therefore, is a breach of article 5 of the Charter." Para. 41.

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