



THE PROHIBITION OF TORTURE AND STATE RESPONSIBILITY: AN ANALYSIS OF THE 2025 UNITED NATION'S TRIENNIAL RESOLUTION AND ITS SIGNIFICANCE FOR NIGERIA

Umar Isa Sulaiman*

ABSTRACT

The prohibition against torture stands as one of the most sacrosanct principles of international human rights law, elevated to the status of jus cogens and universally recognized as a non-derogable obligation binding upon all states. On 20 November 2025, the United Nations General Assembly adopted its triennial resolution on torture, reaffirming the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, even during armed conflict or states of emergency. This paper critically examines the 2025 UN Triennial Resolution and its implications for Nigeria's domestic legal framework and state responsibility obligations. Through an extensive analysis of international legal instruments, jurisprudential developments, and Nigeria's compliance trajectory, this study argues that while Nigeria has made significant legislative strides through the enactment of the Anti – Torture Act 2017 and ratification of the Optional Protocol to the Convention against Torture, substantial gaps persist in implementation, accountability, and victim redress. The paper contends that the 2025 Resolution reinforces the erga omnes character of the torture prohibition and imposes heightened due diligence obligations on states to prevent, investigate, prosecute, and punish acts of torture. For Nigeria, the Resolution serves as both a normative compass and a catalyst for institutional reform, particularly in addressing persistent patterns of police brutality, military detention practices, and the culture of impunity that has historically characterized the state's response to torture allegations. The study concludes with recommendations for strengthening Nigeria's National Preventive Mechanism, enhancing judicial capacity, and ensuring effective remedy for victims, thereby aligning domestic practice with international standards.

KEYWORDS: Torture prohibition, state responsibility, 2025 UN Resolution, Nigeria, Anti – Torture Act, jus cogens, human rights, accountability

1.0 INTRODUCTION

The international community's abhorrence of torture finds its most eloquent expression in the universal recognition that this practice constitutes one of the gravest violations of human dignity and the rule of law.¹ From the Universal Declaration of Human Rights of 1948 to the Convention against Torture and Other Cruel, Inhuman or CAT) of 1984, the prohibition against torture has evolved from a declaratory principle into a binding norm of customary international law with jus

* Doctoral Candidate MAAUN and Lecturer, School of Law, Maryam Abacha American University of Niger/Nigeria +2348028190921 email: uisulaiman48@gmail.com

¹ UN Committee against Torture, "Joint Statement on the 70th Anniversary of the UDHR" (OHCHR, 2018).



cogens status.² The year 2025 marked a watershed moment in this evolutionary trajectory when the United Nations General Assembly adopted its triennial resolution on torture, reiterating that “no one shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment” and affirming that this prohibition remains non-derogable under international law, even during armed conflict or states of emergency.³

The significance of this Resolution extends beyond mere rhetorical reaffirmation; it represents a clarion call to states to intensify their preventive and punitive measures against torture.⁴ For Nigeria, a state that has grappled with persistent allegations of torture by security forces, the 2025 Resolution carries particular salience. Despite ratifying the Convention Against Torture (CAT) in 2001 and the Optional Protocol to the Convention Against Torture (OPCAT) thereto in 2009, and despite the enactment of the Anti – Torture Act (ATA) in 2017, Nigeria continues to face scrutiny from international human rights mechanisms regarding the prevalence of torture in police stations, military detention facilities, and correctional institutions.⁵ The Economic Community of West African State (ECOWAS) Court of Justice has repeatedly found Nigeria liable for violations of the prohibition against torture, most recently in 2025, underscoring the gap between legal commitment and practical implementation.⁶

This paper undertakes a comprehensive examination of the 2025 United Nation (UN) Triennial Resolution on torture and its implications for Nigeria’s state responsibility obligations.⁷ The study is animated by the recognition that the prohibition against torture is not merely a negative obligation to refrain from inflicting pain, but encompasses positive duties to prevent, investigate, prosecute, punish, and provide effective remedy for victims.⁸ Through an analysis of the Resolution’s normative content, the paper explores how it reinforces and expands upon existing international legal standards, particularly regarding the due diligence obligations of states and the *erga omnes* character of the torture prohibition.⁹

The structure of this paper follows a logical progression from theoretical foundations to practical application. Following this introduction, the paper presents a literature review examining theoretical and conceptual frameworks on torture and state responsibility.¹⁰ The third section delineates the international legal framework on torture, tracing the development from the Universal

² International Law Commission, “Conclusions on Peremptory Norms of General International Law (Jus Cogens)” (UN Doc A/73/10, 2018).

³ UNCAT (n 2).

⁴ UN Special Rapporteur on Torture, “Global Trends and Developments on Torture” (OHCHR Call for Inputs, September 2025).

⁵ Federal Ministry of Justice, Nigeria, “No Place for Torture in Nigeria's Justice System” (24 September 2025).

⁶ ECOWAS Court of Justice, *Moses Abiodun v Nigeria*, Judgment No. ECW/CCJ/JUD/08/25 (15 May 2025).

⁷ Manfred Nowak, “*Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*” in *Oxford Handbook of International Human Rights Law* (2021).

⁸ Committee against Torture, General Comment No. 2: Implementation of Article 2 by States Parties (CAT/C/GC/2, 2008).

⁹ Questions relating to the Obligation to Prosecute or Extradite (*Belgium v Senegal*), Judgment, ICJ Reports 2012, p. 422.

¹⁰ *Ibid.*



Declaration to the CAT and its OPCAT.¹¹ The fourth section provides a detailed analysis of the 2025 UN Triennial Resolution, identifying its key innovations and reaffirmations.¹² The fifth section examines the implications of the Resolution for Nigeria, assessing compliance with international standards and identifying persistent challenges.¹³ The sixth section explores challenges and prospects for torture prevention in Nigeria, while the final section offers a summary, conclusion, and recommendations for strengthening Nigeria's anti-torture framework.¹⁴

2.0 LITERATURE REVIEW

2.1 The Conceptual Architecture of Torture

The scholarly discourse on torture encompasses diverse theoretical perspectives that illuminate the multifaceted nature of this phenomenon.¹⁵ At its core, torture represents the deliberate infliction of severe physical or mental pain or suffering by or with the acquiescence of state agents for specific purposes, including obtaining information, extracting confessions, punishing, intimidating, or discriminating.¹⁶ The definition provided in Art. 1 of the CAT has achieved near-universal acceptance, though academic debates persist regarding the threshold of pain required to constitute torture versus cruel, inhuman or degrading treatment, and the scope of state acquiescence.¹⁷

Professor Manfred Nowak, former UN Special Rapporteur on Torture, has argued that the prohibition against torture constitutes an “absolute and sacrosanct” right, yet one that remains “fragile, constantly being tested, and at times, tolerated or excused.”¹⁸ This conceptualization captures the tension between the normative absolutism of the torture prohibition and the empirical reality of its continued practice across diverse jurisdictions.¹⁹ Nowak's work emphasizes that the prohibition extends beyond physical violence to encompass psychological torture, sexual torture, and torture by proxy, thereby expanding the protective ambit of international law.²⁰

2.2 State Responsibility and the Due Diligence Paradigm

The theoretical framework of state responsibility provides the analytical lens through which to examine obligations arising from the torture prohibition.²¹ The International Law Commission's Arts on Responsibility of States for Internationally Wrongful Acts (ARSIWA) establish that a state is responsible for conduct attributable to it that constitutes a breach of an international obligation.²²

¹¹ Ibid.

¹² Nowak (n 7).

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Nowak (n 7).

¹⁶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 1 (adopted 10 December 1984, entered into force 26 June 1987).

¹⁷ Nowak (n 7).

¹⁸ UN Special Rapporteur on Torture, “Mandate Vision Report” (A/77/502, 2022).

¹⁹ Ibid.

²⁰ Ibid.

²¹ International Law Commission, “Articles on Responsibility of States for Internationally Wrongful Acts” (2001).

²² Ibid, Arts. 1-2.



However, the torture prohibition generates obligations not merely of result but of conduct, requiring states to exercise due diligence to prevent and respond to torture.²³

The Committee against Torture's General Comment No. 2 elaborates this due diligence framework, clarifying that systematic failure to protect persons from torture amounts to acquiescence, thereby engaging state responsibility.²⁴ This conceptual shift from direct perpetration to systemic failure has profound implications for understanding state responsibility in contexts where torture is committed by non-state actors or where state institutions fail to prevent or punish private violence.²⁵ The General Comment explicitly states that under the Convention, "failure to exercise due diligence to prevent and respond to serious abuses by private actors can amount to acquiescence and engage State responsibility."²⁶

2.3 The *Jus Cogens* Character of the Torture Prohibition

The elevation of the torture prohibition to *jus cogens* status represents one of the most significant developments in international legal theory.²⁷ The International Law Commission, in its Conclusions on Peremptory Norms of General International Law (*Jus Cogens*), identifies the prohibition of torture as a peremptory norm from which no derogation is permitted.²⁸ This hierarchical superiority means that the torture prohibition prevails over conflicting treaty provisions and customary rules, and that states cannot invoke consent, necessity, or superior orders to justify torture.²⁹

The International Criminal Tribunal for the Former Yugoslavia, in *Prosecutor v Furundžija*,³⁰ established that the prohibition of torture "has evolved into a peremptory norm or *jus cogens*, that is, a norm that enjoys a higher rank in the international hierarchy than treaty law and even 'ordinary' customary rules." This jurisprudential recognition has been reinforced by the International Court of Justice in Questions relating to the Obligation to Prosecute or Extradite, where the Court affirmed that the prohibition of torture is "part of customary international law" that "has become a peremptory norm (*jus cogens*)."³¹

2.4 Victim-Centered Approaches to Torture Prevention

Contemporary scholarship increasingly emphasizes victim-centered approaches to torture prevention and redress.³² The work of scholars such as Theo van Boven and Cherif Bassiouni has

²³ Committee against Torture (n 8), para. 18.

²⁴ Ibid, para. 18.

²⁵ Committee against Torture (n 8).

²⁶ Ibid.

²⁷ International Law Commission (n 2).

²⁸ Ibid, Annex, para. 11.

²⁹ Ibid, Conclusion 14.

³⁰ *Prosecutor v Furundžija*, ICTY, Case No. IT-95-17/1-T, Judgment (10 December 1998), para. 153.

³¹ Questions relating to the Obligation to Prosecute or Extradite (n 10), para. 99.

³² Theo van Boven, "The Position of the Victim in the Statute of the International Criminal Court" in *Reflections on the International Criminal Court* (2000).



illuminated the right of victims to effective remedy, encompassing restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.³³ This theoretical framework informs the interpretation of Article 14 of the CAT, which obligates states to ensure that victims of torture obtain redress and have an enforceable right to fair and adequate compensation.³⁴

Recent literature has also examined the phenomenon of “structural torture”; systemic practices embedded in institutional cultures that normalize violence against detainees.³⁵ This conceptualization moves beyond individual acts of torture to examine how organizational structures, training deficiencies, and accountability gaps create environments conducive to torture.³⁶ For Nigeria, this framework is particularly relevant given documented patterns of torture within the Special Anti-Robbery Squad (SARS) and other security agencies.³⁷

3.0 INTERNATIONAL LEGAL FRAMEWORK ON TORTURE

3.1 The Universal Declaration and the Genesis of the Torture Prohibition

The contemporary international legal framework on torture finds its genesis in Art. 5 of the United Nation Declaration on Human Rights (UDHR), which proclaims that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”³⁸ Adopted in 1948 without dissent, this provision established the foundational norm from which subsequent treaty obligations would develop.³⁹ The UDHR’s prohibition, while initially declaratory, has crystallized into binding customary international law, representing a standard of civilization from which no state may derogate.⁴⁰

The International Covenant on Civil and Political Rights (ICCPR), adopted in 1966, reinforced this prohibition in Article 7, which states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁴¹ Significantly, Article 4 of the ICCPR explicitly lists the prohibition against torture among the non-derogable rights that cannot be suspended even during public emergencies threatening the life of the nation.⁴² This non-derogable character has been interpreted by the Human Rights Committee as reflecting the absolute nature of the obligation and its status as a norm of jus cogens.⁴³

³³ Theo Van Boven (n 32)

³⁴ CAT, Art. 14.

³⁵ Henry Carey, “Structural Torture and State Responsibility” [2023] 45(2) *Human Rights Quarterly* 215.

³⁶ Ibid.

³⁷ Lawyers Alert Nigeria, “Joint Shadow Report to the UN Committee against Torture” (September 2021).

³⁸ Universal Declaration of Human Rights, Art. 5 (adopted 10 December 1948).

³⁹ Ibid.

⁴⁰ International Law Commission (n 2).

⁴¹ International Covenant on Civil and Political Rights, Art. 7 (adopted 16 December 1966, entered into force 23 March 1976).

⁴² International Covenant on Civil and Political Rights, Art. 4(2) (n 41).

⁴³ Human Rights Committee, General Comment No. 29: States of Emergency (CCPR/C/21/Rev1/Add.11, 2001).



3.2 The Convention against Torture

The adoption of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the UN General Assembly in 1984 marked the culmination of efforts to establish a comprehensive legal framework addressing torture.⁴⁴ The CAT contains several innovative provisions that distinguish it from other human rights instruments. Article 2 establishes an absolute prohibition, stipulating 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 of torture.”⁴⁵ This absolute prohibition is reinforced by Article 2(3), which nullifies superior orders as a justification for torture.⁴⁶

Article 4 of the CAT imposes an obligation on states to ensure that all acts of torture are offences under their criminal law, punishable by appropriate penalties that take into account the grave nature of the offence.⁴⁷ This criminalization obligation extends to attempts to commit torture and to acts constituting complicity or participation in torture.⁴⁸ The Committee against Torture has emphasized that domestic legislation must cover all forms of torture, including sexual torture, and must provide penalties commensurate with the severity of the crime.⁴⁹

The CAT also establishes a robust monitoring mechanism through the Committee against Torture, which examines state reports, issues general comments, and adjudicates individual complaints under Article 22.⁵⁰ The Committee’s jurisprudence has significantly developed the content of state obligations, particularly regarding the duty to investigate allegations of torture promptly and impartially, the inadmissibility of evidence obtained through torture, and the obligation to provide rehabilitation to victims.⁵¹

3.3 The Optional Protocol to the Convention Against Torture (OPCAT)

The OPCAT adopted in 2002 and entering into force in 2006, represents a paradigm shift from reactive to preventive approaches in torture eradication.⁵² The OPCAT establishes a system of regular visits to places of detention by independent international and national bodies.⁵³ It creates two complementary mechanisms: the United Nation Subcommittee on Prevention of Torture (UN-SPT) and National Preventive Mechanisms (NPMs) established by states parties.⁵⁴

Article 3 of the OPCAT requires states to establish, designate, or maintain NPMs with the mandate to conduct regular visits to places of detention and make recommendations to authorities.⁵⁵ The

⁴⁴ CAT (n 16).

⁴⁵ Ibid, Art. 2(2).

⁴⁶ Ibid, Art. 2(3).

⁴⁷ Ibid, Art. 4(1).

⁴⁸ Ibid, Art. 4(1).

⁴⁹ Committee against Torture, General Comment No. 3: Implementation of Article 14 by States Parties (CAT/C/GC/3, 2012).

⁵⁰ CAT, Arts. 17-22.

⁵¹ Committee against Torture jurisprudence.

⁵² Optional Protocol to the Convention against Torture (adopted 18 December 2002, entered into force 22 June 2006).

⁵³ Ibid, Art. 1.

⁵⁴ Ibid, Arts. 4-5.

⁵⁵ Ibid, Art. 3.



UN-SPT, composed of independent experts, undertakes visits to states parties, provides assistance and advice to NPMs, and cooperates with other international and regional mechanisms.⁵⁶ This preventive approach recognizes that torture often occurs in hidden spaces of detention, away from public scrutiny, and that regular monitoring is essential to creating an environment inhospitable to torture.⁵⁷

3.4 The African Charter on Human and Peoples' Rights (ACHPR) and ECOWAS Jurisprudence

Regional human rights instruments complement the universal framework. Article 5 of the African Charter on Human and Peoples' Rights prohibits "all forms of exploitation and degradation of man, particularly... torture, cruel, inhuman or degrading punishment and treatment."⁵⁸ The African Commission on Human and Peoples' Rights has interpreted this provision expansively, recognizing that the prohibition against torture is absolute and non-derogable.⁵⁹

The ECOWAS Court of Justice has emerged as a significant forum for adjudicating torture claims against Nigerian authorities.⁶⁰ In *Moses Abiodun v Nigeria*, the Court held Nigeria liable for violating the rights of an individual detained without trial since 2009 by the SARS police unit, awarding 20 million naira in compensation.⁶¹ Similarly, in *Oluwatimilehin Adebayo v Nigeria* (2024), the Court ordered Nigeria to compensate the applicant with 5 million naira for torture inflicted by police officers.⁶² These judgments demonstrate the justiciability of torture claims at the regional level and the enforceability of state responsibility obligations.⁶³

4.0 ANALYSIS OF THE 2025 UNITED NATION (UN) TRIENNIAL RESOLUTION

4.1 Normative Content and Key Affirmations

The 2025 UN General Assembly Resolution on torture and other cruel, inhuman or degrading treatment or punishment, adopted on 20 November 2025, represents the latest iteration of the triennial resolutions that have charted the international community's commitment to torture eradication since 1974.⁶⁴ The Resolution reaffirms that the prohibition against torture is a peremptory norm of general international law (*jus cogens*) and a non-derogable right, applicable at all times and in all circumstances, including during armed conflict or states of emergency.⁶⁵

⁵⁶ Ibid, Art. 11.

⁵⁷ Nowak (n 7).

⁵⁸ African Charter on Human and Peoples' Rights, Art. 5 (adopted 27 June 1981, entered into force 21 October 1986).

⁵⁹ African Commission on Human and Peoples' Rights, General Comment No. 4 on the Right to Life (2015).

⁶⁰ ECOWAS Court of Justice, *Moses Abiodun v Nigeria* (n 6).

⁶¹ Ibid.

⁶² ECOWAS Court of Justice, *Oluwatimilehin Adebayo v Nigeria*, Judgment (3 December 2024).

⁶³ Ibid.

⁶⁴ UN General Assembly Resolution A/RES/80/197 (20 November 2025).

⁶⁵ Ibid, Preamble.



A significant aspect of the 2025 Resolution is its emphasis on the absolute character of the torture prohibition.⁶⁶ The Resolution reiterates that “no exceptional circumstances whatsoever” may justify torture, explicitly rejecting arguments based on national security, counter-terrorism, or public emergencies.⁶⁷ This reaffirmation responds to contemporary challenges where states have sought to dilute torture prohibitions through “enhanced interrogation” techniques or security-based justifications.⁶⁸ The Resolution’s unequivocal language reinforces the hierarchy of norms, placing the torture prohibition beyond the reach of policy preferences or political expediency.⁶⁹

4.2 Due Diligence and Positive Obligations

The 2025 Resolution elaborates upon the due diligence obligations of states in preventing torture.⁷⁰ It calls upon states to take “effective legislative, administrative, judicial or other measures” to prevent acts of torture in any territory under their jurisdiction.⁷¹ This formulation encompasses both negative obligations to refrain from torture and positive obligations to create institutional frameworks that prevent torture by state and non-state actors.⁷² The Resolution specifically urges states to establish independent monitoring mechanisms for places of detention, ensure access to legal counsel and medical examination for detainees, and prohibit the admission of evidence obtained through torture.⁷³

The Resolution also addresses the obligation to investigate, prosecute, and punish perpetrators of torture.⁷⁴ It calls upon states to ensure that complaints of torture are investigated promptly and impartially, that perpetrators are prosecuted, and that victims obtain redress.⁷⁵ This tripartite obligation (prevention, punishment, and remedy) constitutes the core of state responsibility under the CAT and is reinforced by the 2025 Resolution.⁷⁶ The Resolution further emphasizes that amnesties, immunities, and statutes of limitations for torture are incompatible with international law, given the gravity of the offence and the *jus cogens* status of the prohibition.⁷⁷

4.3 Torture in Armed Conflict and Counter-Terrorism Contexts

The 2025 Resolution pays particular attention to the prohibition of torture during armed conflict and in counter-terrorism operations.⁷⁸ It reaffirms that the prohibition against torture applies without distinction to all persons, including those detained in connection with armed conflict or

⁶⁶ Ibid, para. 2.

⁶⁷ Ibid.

⁶⁸ Just Security, “Does the United States Still Oppose Torture?” (10 December 2025).

⁶⁹ Ibid.

⁷⁰ UN General Assembly Resolution A/RES/80/197 (n 64), para. 4.

⁷¹ Ibid.

⁷² Committee against Torture (n 8).

⁷³ UN General Assembly Resolution A/RES/80/197 (n 64), para. 6.

⁷⁴ Ibid, para. 8.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid, para. 9.

⁷⁸ Ibid, para. 12.



terrorism.⁷⁹ This affirmation responds to documented instances of torture in conflict zones, including the systematic use of torture by Russian forces in Ukraine, which has been characterized by the Independent International Commission of Inquiry as amounting to war crimes and crimes against humanity.⁸⁰

The Resolution calls upon states to ensure that counter-terrorism measures comply with international human rights law, international humanitarian law, and refugee law.⁸¹ It emphasizes that the transfer of persons to states where they would face a real risk of torture (refoulement) is prohibited under international law, regardless of diplomatic assurances or security considerations.⁸² This provision reinforces the extraterritorial application of the torture prohibition and the obligation of states to respect the principle of non-refoulement.⁸³

4.4 Innovations in the 2025 Resolution

While maintaining continuity with previous triennial resolutions, the 2025 text introduces several noteworthy elements.⁸⁴ The Resolution places enhanced emphasis on sexual torture as a distinct form of torture requiring specific legislative and policy responses.⁸⁵ It calls upon states to criminalize sexual torture explicitly and to ensure that investigations are conducted with sensitivity to gender-based violence.⁸⁶ This focus reflects growing recognition that sexual torture is systematically used as a weapon of war and a tool of political repression, particularly against women and marginalized groups.⁸⁷

The Resolution also highlights the role of non-state actors in torture prevention.⁸⁸ It urges states to exercise due diligence to prevent torture by private actors, including in contexts of domestic violence, human trafficking, and organized crime.⁸⁹ This expansion of the preventive obligation aligns with General Comment No. 2 of the Committee against Torture, which clarifies that state responsibility extends to failures to protect individuals from torture by private actors when such failure amounts to acquiescence.⁹⁰

Furthermore, the Resolution emphasizes the importance of rehabilitation and psychosocial support for victims of torture.⁹¹ It calls upon states to ensure that victims have access to appropriate medical, psychological, and social services, and that rehabilitation programs are adequately funded and

⁷⁹ Ibid.

⁸⁰ UN Commission of Inquiry on Ukraine, Report (A/80/315, 2025).

⁸¹ UN General Assembly Resolution A/RES/80/197 (n 65), para. 14.

⁸² Ibid, para. 15.

⁸³ Ibid.

⁸⁴ UNCAT (n 2).

⁸⁵ UN General Assembly Resolution A/RES/80/197 (n 65), para. 10.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid, para. 18.

⁸⁹ Ibid.

⁹⁰ Committee against Torture (n 8).

⁹¹ UN General Assembly Resolution A/RES/80/197 (n 65), para. 20.



accessible.⁹² This victim-centered approach reflects an evolving understanding of torture as producing long-term trauma that requires sustained intervention.⁹³

4.5 Voting Patterns and Dissenting Positions

The adoption of the 2025 Resolution was marked by an unusual voting pattern that merits analysis.⁹⁴ While 169 member states voted in favor, three states (the United States, Israel, and Argentina) voted against the Resolution, and four states (the Russian Federation, Nicaragua, Burundi, and Papua New Guinea) abstained.⁹⁵ The United States' negative vote, breaking with previous consensus-based adoption, was justified on procedural grounds rather than substantive opposition to the torture prohibition.⁹⁶ However, the absence of an explicit reaffirmation of opposition to torture in the U.S. explanation of vote raised concerns regarding commitment to the absolute prohibition.⁹⁷

This voting pattern underscores the persistent tensions between universal human rights norms and state sovereignty claims.⁹⁸ The dissenting states' positions highlight the challenges of maintaining consensus around torture prohibition in an era of geopolitical fragmentation and competing security narratives.⁹⁹ Nevertheless, the overwhelming majority support for the Resolution reaffirms the universality of the torture prohibition and the international community's rejection of torture under any circumstances.¹⁰⁰

5.0 IMPLICATIONS FOR NIGERIA

5.1 Legislative Framework and Domestication of International Standards

Nigeria's legal framework regarding torture has undergone significant transformation over the past decade, reflecting incremental alignment with international standards.¹⁰¹ The Constitution of the Federal Republic of Nigeria 1999 (as amended) provides foundational protection through section 34(1)(a), which guarantees the dignity of every individual and prohibits torture.¹⁰² However, the absence of an explicit non-derogable right to freedom from torture in the Constitution has been criticized as creating potential loopholes for security-based derogations.¹⁰³

The enactment of the ATA in 2017 represented a watershed moment in Nigeria's domestication of the CAT.¹⁰⁴ Section 1 of the Act imposes an obligation on government to ensure that the rights of

⁹² Ibid.

⁹³ Ibid.

⁹⁴ UNCAT (n 2).

⁹⁵ Ibid.

⁹⁶ Just Security (n 68).

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ UNCAT (n 2).

¹⁰¹ This Day Live, "Prohibition of Torture in Nigeria" *This Day Live* (24 January 2025).

¹⁰² Constitution of the Federal Republic of Nigeria 1999, Section 34(1)(a).

¹⁰³ Lawyers Alert Nigeria (n 37).

¹⁰⁴ Anti-Torture Act 2017 (Nigeria).



all persons, including suspects, detainees, and prisoners to freedom from torture are respected at all times.¹⁰⁵ Section 2 defines torture comprehensively, incorporating both physical and mental elements, and explicitly criminalizes acts of torture committed by public officials or with their acquiescence.¹⁰⁶ The Act establishes penalties of up to twenty-five years imprisonment for perpetrators and provides for victim compensation.¹⁰⁷

The Administration of Criminal Justice Act (ACJA) 2015 complements the ATA by establishing procedural safeguards against coerced confessions.¹⁰⁸ Section 8(1) of the ACJA prohibits torture or degrading treatment of suspects, while section 15 mandates that confessional statements be recorded electronically in audio-visual format to prevent coercion.¹⁰⁹ The Supreme Court of Nigeria, in *Federal Republic of Nigeria v Akaeze*,¹¹⁰ reinforced these protections, holding that failure to electronically record confessions renders them inadmissible in court.

5.2 Institutional Mechanisms for Torture Prevention

Nigeria has established several institutional mechanisms to implement its anti-torture obligations.¹¹¹ The CATN, established in 2009, serves as the coordinating body across relevant ministries and agencies.¹¹² In 2025, Nigeria established its National Preventive Mechanism (NPM) under the OPCAT framework, marking significant progress in preventive oversight.¹¹³ The NPM is mandated to conduct regular visits to places of detention and make recommendations to authorities regarding conditions and treatment of detainees.¹¹⁴

The National Human Rights Commission (NHRC) plays a complementary role in receiving complaints of torture and conducting investigations.¹¹⁵ The Commission has documented numerous cases of torture by security forces and has made recommendations for prosecution and compensation.¹¹⁶ However, the NHRC's recommendations are not binding on government agencies, limiting its effectiveness in ensuring accountability.¹¹⁷ The Police Service Commission (PSC), responsible for police oversight, has similarly faced resource and capacity constraints in fulfilling its mandate.¹¹⁸

¹⁰⁵ Ibid, Section 1.

¹⁰⁶ Ibid, Section 2.

¹⁰⁷ Ibid, Section 4.

¹⁰⁸ Administration of Criminal Justice Act 2015 (Nigeria).

¹⁰⁹ Ibid, Sections 8(1), 15.

¹¹⁰ Supreme Court of Nigeria, *Federal Republic of Nigeria v Akaeze* (2024) 12 NWLR (Pt. 1951) 1.

¹¹¹ Federal Ministry of Justice (n 5).

¹¹² Ibid.

¹¹³ OHCHR, "Communication to Nigeria" *OHCHR* (2 June 2025).

¹¹⁴ Ibid.

¹¹⁵ National Human Rights Commission Act (Nigeria).

¹¹⁶ Lawyers Alert Nigeria (n 37).

¹¹⁷ Ibid.

¹¹⁸ Ibid.



5.3 Judicial Remedies and Regional Accountability

Nigerian courts and regional tribunals have increasingly served as forums for adjudicating torture claims against state authorities.¹¹⁹ The ECOWAS Court of Justice has emerged as a particularly important venue for victims seeking redress.¹²⁰ In *Moses Abiodun v Nigeria*,¹²¹ the Court found Nigeria liable for violating the applicant's right to freedom from inhuman and degrading treatment following his prolonged detention without trial by the SARS police unit. The Court ordered Abiodun's immediate release and awarded 20 million naira in compensation.¹²²

Similarly, in *Oluwatimilehin Adebayo v Nigeria*,¹²³ the ECOWAS Court ordered Nigeria to compensate the applicant with 5 million naira for torture inflicted by police officers in Ogun State and mandated a prompt and impartial investigation. In *Federal Republic of Nigeria v Akaeze*,¹²⁴ the Supreme Court reinforced procedural safeguards by mandating electronic recording of confessions. These judgments demonstrate the justiciability of torture claims and the enforceability of state responsibility obligations at both domestic and regional levels.¹²⁵

5.4 Persistent Challenges in Implementation

Despite legislative and institutional advances, Nigeria faces persistent challenges in implementing its anti-torture obligations.¹²⁶ Most significantly, there have been no reported prosecutions under the ATA since its enactment in 2017, suggesting a culture of impunity and lack of political will to hold perpetrators accountable.¹²⁷ This impunity is reinforced by constitutional immunities for high-ranking officials and functional immunities for military personnel under section 239 of the Armed Forces Act.¹²⁸

The Special Rapporteur on torture has documented that torture remains “an intrinsic part of how law enforcement services operate within Nigeria,” with police engaging in “flogging with whips, beatings with batons and machetes, shooting suspects in the foot, threatening suspects with death and shooting them with power cartridges.”¹²⁹ The 2020 EndSARS protests, which were met with violent repression including the Lekki Toll Gate massacre, exemplify the continued use of excessive force against civilians.¹³⁰ The ECOWAS Court, in its 2024 judgment regarding the Lekki

¹¹⁹ ECOWAS Court of Justice, *Moses Abiodun v Nigeria* (n 6).

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² *Ibid.*

¹²³ ECOWAS Court of Justice (n 62).

¹²⁴ Supreme Court of Nigeria (n 110).

¹²⁵ *Ibid.*

¹²⁶ Legend Golden Care Foundation, “Global Trends and Development on Torture” (Submission to UN Special Rapporteur, 2025).

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

¹²⁹ This Day Live (n 101).

¹³⁰ REDRESS, “Nigeria Condemned by ECOWAS Court for Torture of Protesters at Lekki Toll Gate” REDRESS (31 July 2024).



Toll Gate incident, found that Nigeria violated the prohibition against torture through the disproportionate use of force against protesters.¹³¹

Access to places of detention remains problematic.¹³² In September 2024, the UN Subcommittee on Prevention of Torture reported a lack of cooperation from Nigerian authorities during its visit, citing access issues in several detention facilities and a general climate of hostility.¹³³ The Subcommittee noted particular concerns regarding military facilities and sites where individuals convicted or awaiting trial for terrorism-related crimes are detained.¹³⁴

5.5 The 2025 Resolution as a Catalyst for Reform

The 2025 UN Triennial Resolution provides Nigeria with a renewed impetus to address these implementation gaps.¹³⁵ The Resolution's emphasis on the absolute and non-derogable character of the torture prohibition reinforces the supremacy of human rights over security considerations, challenging arguments that torture is necessary for effective law enforcement or counter-terrorism.¹³⁶ The Resolution's call for the criminalization of sexual torture addresses a gap in Nigeria's current legal framework, which does not explicitly define or criminalize sexualized forms of torture.¹³⁷

The Resolution's focus on victim rehabilitation aligns with ongoing legislative efforts in Nigeria.¹³⁸ In October 2024, stakeholders initiated amendments to the ATA to incorporate rehabilitation and psychosocial support for torture survivors, providing a more holistic approach to care, legal protection, and reintegration.¹³⁹ This amendment, sponsored by Senators Tony Nwoye and Kelvin Chukwu, passed its first reading at the National Assembly and reflects increasing commitment to aligning Nigerian law with international human rights standards.¹⁴⁰

6.0 CHALLENGES AND PROSPECTS

6.1 Structural and Institutional Obstacles

The eradication of torture in Nigeria faces entrenched structural and institutional obstacles that require sustained attention.¹⁴¹ The persistence of a "torture culture" within security agencies reflects deep-rooted patterns of impunity, inadequate training, and institutional incentives that prioritize confessions over due process.¹⁴² The Nigerian Police Force, in particular, has been characterized

¹³¹ Ibid.

¹³² Legend Golden Care Foundation (n 126).

¹³³ Ibid.

¹³⁴ OHCHR (n 13).

¹³⁵ UN General Assembly Resolution A/RES/80/197 (n 64).

¹³⁶ Ibid.

¹³⁷ Legend Golden Care Foundation (n 126).

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Lawyers Alert Nigeria (n 37).

¹⁴² This Day Live (n 101).



by the Special Rapporteur on torture as operating through torture as a standard investigative technique.¹⁴³

Resource constraints impede the effective functioning of oversight mechanisms.¹⁴⁴ The National Committee against Torture lacks adequate financial and logistical resources to conduct regular visits to detention facilities and investigate complaints.¹⁴⁵ Similarly, the National Human Rights Commission faces funding limitations that restrict its capacity to monitor compliance and provide legal assistance to victims.¹⁴⁶ The establishment of the NPM in 2025 represents progress, but its effectiveness will depend on adequate resourcing and political support.¹⁴⁷

6.2 Legal and Procedural Gaps

Several legal and procedural gaps undermine Nigeria's anti-torture framework.¹⁴⁸ The absence of universal jurisdiction legislation limits Nigerian courts' authority to prosecute international crimes, including torture committed abroad.¹⁴⁹ While Nigeria has ratified the Rome Statute of the International Criminal Court, it has not fully domesticated these obligations to enable prosecution of torture under universal jurisdiction principles.¹⁵⁰

The Public Officers Protection Act imposes a three-month limitation period for initiating legal action against public officers for acts done in the execution of their duties, potentially hindering the prosecution of torture cases where victims may be unable to bring claims within this timeframe.¹⁵¹ Additionally, the absence of explicit provisions removing amnesties, immunities, or statutes of limitations for torture creates legal pathways for impunity.¹⁵²

6.3 Counter-Terrorism and Security Exceptions

The context of armed conflict in Northeast Nigeria, where the military confronts Boko Haram insurgents, presents particular challenges for torture prevention.¹⁵³ Reports indicate that children have been arbitrarily detained for protracted periods in military facilities for their actual or perceived association with armed groups, without individual determination of the necessity and proportionality of detention.¹⁵⁴ The UN has expressed concern that these children should not be detained due to their or their parents' association with armed groups, yet such detention practices continue.¹⁵⁵

¹⁴³ Ibid.

¹⁴⁴ Lawyers Alert Nigeria (n 37).

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ OHCHR (n 13).

¹⁴⁸ Legend Golden Care Foundation (n 126).

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Legend Golden Care Foundation (n 26)

¹⁵² Ibid.

¹⁵³ OHCHR (n 13).

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.



The 2025 Resolution's unequivocal affirmation that the torture prohibition applies without exception during armed conflict provides a normative basis for challenging security-based justifications for torture.¹⁵⁶ However, translating this normative clarity into operational practice requires enhanced training for military personnel, independent monitoring of detention facilities, and accountability mechanisms that function effectively in conflict zones.¹⁵⁷

6.4 Prospects for Strengthened Compliance

Despite these challenges, several developments suggest prospects for strengthened compliance with international standards.¹⁵⁸ The 2025 establishment of Nigeria's NPM under the OPCAT framework creates a dedicated mechanism for preventive monitoring.¹⁵⁹ The Federal Ministry of Justice has demonstrated commitment through sensitization workshops for law enforcement agencies on the prohibition of torture and Nigeria's OPCAT obligations.¹⁶⁰ The Solicitor-General of the Federation has indicated ongoing review of the ATA to expand the definition of torture and enhance mechanisms to discourage and eradicate torture in detention facilities.¹⁶¹

Civil society organizations, including the Legend Golden Care Foundation and the Rights and Rehabilitation of Vulnerable Persons Initiative, have been instrumental in advocating for legislative reforms and providing support to torture survivors.¹⁶² The adoption of the National Minimum Standards Document 2024 by the Federal Ministry of Justice and the Rule of Law and Anti-Corruption Programme represents an effort to standardize implementation of the ACJA across states, emphasizing victim participation, protection, and the use of forensic evidence.¹⁶³

Regional accountability mechanisms continue to provide avenues for redress.¹⁶⁴ The ECOWAS Court's jurisprudence has established clear precedents regarding state responsibility for torture, and Nigeria's obligation to comply with these judgments creates enforceable legal obligations.¹⁶⁵ The 2025 judgment in *Moses Abiodun v Nigeria* demonstrates the Court's willingness to order specific remedies, including compensation and release from detention.¹⁶⁶

7.0 RECOMMENDATIONS

Based on the foregoing analysis, the following recommendations are proposed to strengthen Nigeria's compliance with the 2025 UN Triennial Resolution and international standards on torture prohibition:

¹⁵⁶ UN General Assembly Resolution A/RES/80/197 (n 64).

¹⁵⁷ Ibid.

¹⁵⁸ Federal Ministry of Justice (n 5).

¹⁵⁹ OHCHR (n 13).

¹⁶⁰ Federal Ministry of Justice (n 5).

¹⁶¹ Legend Golden Care Foundation (n 126).

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ ECOWAS Court of Justice (n 6).

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.



- i. The National Assembly should expedite the passage of the proposed amendment to the ATA to incorporate explicit provisions on sexual torture, rehabilitation for survivors, and the removal of statutes of limitations for torture prosecutions. Legislation should be enacted to implement universal jurisdiction over torture, enabling Nigerian courts to prosecute acts of torture committed abroad.
- ii. The Federal Government should ensure adequate funding and operational independence for the NPM, granting it unfettered access to all places of detention, including military and security facilities. The NPM should establish a transparent reporting mechanism and ensure that recommendations are followed by implementing agencies.
- iii. The Attorney-General of the Federation should establish a specialized unit within the Ministry of Justice dedicated to prosecuting torture cases, with trained personnel and resources to investigate allegations independently. All allegations of torture should be investigated promptly and impartially, with perpetrators prosecuted under the ATA.
- iv. Constitutional and statutory provisions granting immunity to high-ranking officials and functional immunity to security personnel should be reviewed to ensure compatibility with the absolute prohibition against torture. No individual should be shielded from accountability for acts of torture.
- v. Comprehensive training programs on human rights and the prohibition of torture should be mandated for all law enforcement and security personnel, with regular refresher courses and evaluation of compliance. Training should emphasize alternative investigative techniques that do not rely on coercion.
- vi. The Federal Government should establish a fund for the rehabilitation and compensation of torture survivors, ensuring access to medical, psychological, and social services. The recommendations of judicial panels of inquiry regarding compensation should be implemented without delay.
- vii. Nigeria should ensure full implementation of ECOWAS Court judgments, including payment of compensation to victims and implementation of structural reforms to prevent recurrence. Compliance with regional judgments is essential for maintaining the rule of law and demonstrating commitment to human rights.
- viii. Nigeria should facilitate unhindered access for the UN Subcommittee on Prevention of Torture and other international monitoring bodies, addressing the concerns raised during the 2024 visit regarding cooperation and access to detention facilities.
- ix. Public education campaigns should be conducted to raise awareness of the prohibition against torture and the rights of detainees. Civil society organizations should be supported in their work monitoring detention conditions and providing legal assistance to victims.
- x. The National Bureau of Statistics, in collaboration with the NHRC and NPM, should establish a system for collecting disaggregated data on allegations of torture, investigations, prosecutions, and convictions to enable evidence-based policy making and monitoring of progress.



The prohibition against torture stands as a fundamental pillar of human rights and the rule of law. The 2025 UN Triennial Resolution reinforces the international community's unwavering commitment to this prohibition and the comprehensive obligations it imposes upon states. For Nigeria, full compliance with these obligations requires sustained political will, institutional reform, and the recognition that respect for human dignity is not merely a legal obligation but a foundation for legitimate governance and social cohesion.

8.0 CONCLUSION

The 2025 UN Triennial Resolution serves as a critical normative instrument reinforcing the absolute character of the torture prohibition and the comprehensive nature of state responsibility. For Nigeria, the Resolution provides both a benchmark for assessing compliance and a catalyst for institutional reform. The gap between Nigeria's legal commitments and practical implementation highlights the challenges of translating international norms into domestic practice, particularly in contexts of security challenges and institutional weakness. The Resolution's emphasis on due diligence, victim rehabilitation, and the criminalization of sexual torture addresses specific gaps in Nigeria's current framework. The establishment of the NPM in 2025 represents a significant opportunity for strengthening preventive oversight, provided it is adequately resourced and granted unfettered access to all places of detention, including military facilities. The continued absence of prosecutions for torture undermines the deterrent effect of the ATA and perpetuates a culture of impunity that is incompatible with Nigeria's international obligations. State responsibility for torture extends beyond individual perpetration to encompass systemic failures to prevent, investigate, and punish. Nigeria's obligation to exercise due diligence requires comprehensive reforms addressing training, oversight, accountability, and victim support. The 2025 Resolution's call for the removal of amnesties, immunities, and statutes of limitations for torture challenges Nigeria to address constitutional and statutory provisions that currently shield high-ranking officials and security personnel from accountability.