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Report of the United Nations High Commissioner for Human Rights on violations and abuses committed by Boko Haram and the impact on human rights in the affected countries*

Summary

This report is presented pursuant to Human Rights Council resolution S-23/1 on atrocities committed by the terrorist group Boko Haram and its effects on human rights in the affected States. The resolution requested the Office of the United Nations High Commissioner for Human Rights to collect information from affected States and, in close cooperation and consultation with them, prepare a report on violations and abuses of human rights and atrocities committed Boko Haram in the States affected by such acts, with a view towards accountability. On 1 July 2015, the High Commissioner for Human Rights provided an oral update on the subject to the Human Rights Council.

* Late submission.

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I. Introduction

1. Since 2009, Boko Haram has been committing widespread human rights abuses in large parts of north-eastern Nigeria. From December 2013, the group extended its attacks to other countries bordering Nigeria, notably Cameroon, followed by Niger and Chad¹. This expansion triggered bilateral and multilateral counter-insurgency measures by affected countries. A cooperation agreement between Cameroon and Chad and between Nigeria and Chad, in January 2015, led to robust joint military operations against Boko Haram, removing them from much of the territory they had controlled. In March 2015, regional coordination by the African Union led to the creation of a Multinational Joint Task Force to fight Boko Haram, involving troops from five countries.²

2. Despite these efforts, Boko Haram continues to commit gross human rights abuses and serious violations of international humanitarian law (IHL) resulting in ongoing casualties and further destruction of property. In accordance with Human Rights Council resolution S-23/1, this report focuses on abuses and violations of human rights and IHL committed by Boko Haram, and primarily covers the period when the conflict became regionalized, from December 2013 until July 2015. The report also includes information on violations of international human rights law and international humanitarian law allegedly committed by Government security forces during counter-insurgency operations.

II. Methodology

3. Since early 2015, the Office of the United Nations High Commissioner for Human Rights (OHCHR) deployed human rights officers to countries affected by Boko Haram, for varied periods, to collect information on human rights abuses and violations and violations of IHL. This report is primarily based on over 350 confidential interviews which OHCHR conducted with individuals from diverse ethnic and religious groups, including 210 women and girls, as well as refugees and internally displaced persons (IDPs). In addition, on 21-22 August 2015, the Assistant Secretary-General for Human Rights visited Maiduguri, Borno state, Nigeria, where he met with State officials, victims of Boko Haram attacks, and civil society.

4. Apart from collecting information through confidential interviews, OHCHR staff met Government authorities and generally good collaboration was extended to them. OHCHR consulted other United Nations entities and civil society organizations operating in affected areas, coordinators of IDP and refugee camps, religious and traditional leaders, women's groups, and teachers. OHCHR paid special attention to the gender dimensions of the conflict.

5. The report focuses on regions where Boko Haram has been active, namely the far north region of Cameroon, the southwest region of Chad, the southeast of Niger and the northeast region of Nigeria.

6. Several challenges arose in the preparation of this report. The timing allotted by the resolution, together with practical constraints, such as budget, staffing, as well as coverage of a wide geographic area of the affected States inherently pose limits to the findings, including in terms of the amount of information gathered and the corroboration. The report

¹ In December 2013, Boko Haram attacked Cameroon, then Niger in February 2015, and Chad in June 2015.

² Benin, Cameroon, Chad, Niger and Nigeria.

indicates whenever the information gathered is preliminary and notes whenever additional information is on file. Additional constraints were lack of access to certain areas due to ongoing attacks by Boko Haram, or reluctance by witnesses to share their experiences for fear of reprisals or stigma, particularly victims of sexual or gender-based violence.

III. Context

7. Northern Nigeria has been prone to civil unrest and resistance since the emergence and conquest of the Sokoto Caliphate in the early 1900s. Decades later, Boko Haram, was formed in Maiduguri in 2002, by Muhammed Yusuf and advocated a strict form of Sharia law and opposed to Western influence and education. Their mosques and schools enrolled children and later became recruiting grounds.

8. In 2009, following a spate of attacks against Government institutions in Bauchi and Borno states, the security forces killed Muhammed Yusuf. Under the leadership of Abubakar Shekau, Boko Haram attacked objects protected under international law, such as places of worship and schools.

IV. Displacement of persons as a result of the conflict

A. Internally displaced persons

9. As at July 2015, there were 1.3 million IDPs (56 per cent are children), in Nigeria, with Borno state hosting the largest population; 81,693 IDPs across four divisions of the far north region in Cameroon; and 18,882 IDPs in Chad, including returnees from Nigeria, spread across four districts. These IDPs are in camps, informal settlements, host communities, with families, in rented houses, in places of worship and public buildings, and at border crossings. Consequently, their enjoyment of the rights to education, food, health, shelter, and water and sanitation has been greatly reduced. Numerous displaced children are unable to access education, while those who remain in their communities often receive poor quality education due to insecurity, the absence of teachers who have fled, and destruction of schools.

10. In Cameroon, most of the border villages in the far north remain deserted and the World Food Programme has warned that famine would be unavoidable in the coming year if IDPs were unable to return to their homes and cultivate farmlands. OHCHR observed that families hosting IDPs faced food shortages, and that children were used to find food, exposing them to dangers such as sexual abuse.

11. In Nigeria, protection concerns in some IDP camps include insecurity, tensions amongst residents, and between them and host communities, and sexual and gender-based violence³. A Government report into allegations of rape and child trafficking in IDP camps, found no evidence of child trafficking, but rather predisposing factors to human trafficking⁴. OCHA estimated that as many as three million people in northern Nigeria alone would not meet their basic food needs without humanitarian aid after July 2015⁵.

³ UNHCR/IOM Displacement Population Profiling (May 2015).

⁴ Report of the Fact-Finding Committee on the Allegation of Rape and Child Trafficking in Internally Displaced Persons Camps in the North East of Nigeria.

⁵ OCHA Briefing to the Security Council on threats to international peace and security caused by terrorist acts (Boko Haram), 30 March 2015

12. OHCHR noted that a significant number of displaced persons in Nigeria have begun to spontaneously return to their places of residence, but as Boko Haram attacks continue, security and protection concerns remain, including the existence of landmines.

B. Refugees

13. Since the escalation of violence in northeastern Nigeria in 2013, thousands have fled across the border into Cameroon, Chad and Niger, while attacks in Niger led people from Diffa to flee across the border into Chad. This has resulted in a major refugee crisis in the region.

14. In Niger, UNHCR reported that about 16,000 Nigerian refugees were in Diffa by July 2015, and 40 per cent of refugees in Diffa are children.

15. In Chad, as of July 2015, 7,139 Nigerian and Niger refugees were spread across 3,132 households in the Dar es Salam refugee camp.

16. Minawao camp, in Cameroon's far north region, has the highest influx of refugees in the Lake Chad basin. Established in July 2013, it hosted 40,995 refugees as of July 2015, largely from Adamawa and Borno states, Nigeria. Seventy-five per cent were children aged mostly between 8 and 17, and 53 per cent were women and girls; the camp continued to receive new refugees (2,345 in June 2015 alone).

17. OHCHR received information that, contrary to the principle of non-refoulement, at least on one occasion, the Niger military forced Nigerian refugees who had endured lengthy and life-threatening journeys from their villages, as well as Nigerians who had long resided in Niger, back to Nigeria accusing them of bringing Boko Haram attacks. Similar incidents of forced return of Nigerian refugees from Cameroon and Chad have been reported. Additionally, Nigerian refugees have allegedly been targeted by local authorities as being members of Boko Haram in these countries, based solely on their nationality.

V. Applicable legal framework

18. Cameroon, Chad, Niger and Nigeria have ratified several international and regional human rights instruments. All are parties to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child⁶. Additionally, Niger and Nigeria are parties to the Convention on the Rights of Persons with Disabilities, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Convention for the Protection of All Persons from Enforced Disappearance.

19. The nature and intensity of the armed violence, its protracted nature, and the level of organization of Boko Haram as an armed group, attest to the existence of a non-international armed conflict in northern Nigeria.⁷ The International Committee of the Red

<https://docs.unocha.org/sites/dms/Documents/30%20Mar%2015%20ASG%20Kang%20Security%20Council%20Boko%20Haram.pdf>

⁶ Benin, Cameroon, Chad, Niger and Nigeria.

⁷ Boko Haram has conducted operations and several attacks in the areas of Cameroon, Chad and Niger that border northern Nigeria.

Cross⁸ and the International Criminal Court⁹ have confirmed the existence of an armed conflict between the Nigerian armed forces and armed groups since May 2013. Boko Haram has conducted operations and several attacks in the areas of Cameroon, Chad and Niger bordering northern Nigeria. However, in light of the challenges faced in collecting information, OHCHR has not been able to gather sufficient elements that would allow it to make a conclusive determination on the existence of a non-international armed conflict between Boko Haram and the armed forces of these three countries¹⁰. Nevertheless, OHCHR notes that Cameroon, Chad and Niger are also parties to the Four Geneva Conventions of 1949 and Additional Protocol II. All parties to the conflict are bound by the relevant rules of treaty and customary law applicable to non-international armed conflicts, in particular article 3 common to the Four Geneva Conventions of 1949 and Additional Protocol II.

VI. Human rights abuses by Boko Haram¹¹

A. Killing of civilians

20. Government sources in the concerned countries estimate that approximately 20,000 civilians, including an undetermined number of women and children, have been killed by Boko Haram since 2009¹². However, the actual number of fatalities is likely to be much higher. Civilians have been shot, beheaded, amputated, stoned, drowned, burned and bombed.

21. Boko Haram has used stones, machetes, knives, sophisticated and high calibre weapons, Improvised Explosive Devices (IEDs), landmines, guns mounted on pickup trucks, military helicopters, armoured vehicles, and motorcycles to perpetrate killings. Men and boys who refused to adopt Boko Haram's beliefs were specifically targeted in killings, as were law enforcement officials, teachers, health care workers and members of civilian self-defence groups.

22. In Nigeria, Boko Haram intentionally killed and maimed civilians in attacks throughout Borno state, and in parts of Adamawa and Yobe states. Many witnesses reported that Boko Haram shot civilians that tried to escape during attacks in Askira Uba, Baga, Bama, Damasak, Gombi, Gwoza, Kwajafa, Madagali, Maiduguri, Michika, and Mubi. These killings were often preceded by death threats or Boko Haram "inviting" men and boys to join them in "the work of Allah". Those who refused to join were killed, and their bodies often left to rot in streets, wells or river beds.

23. For example, OHCHR received video footage of the massacre of civilians after Boko Haram captured Bama, in October 2014. It shows several men with their arms bound, driven in a truck to a bridge where they were shot, one after the other, at the back of the head, and thrown into a river. It also shows civilians held in a room, and shot. Boko Haram

⁸ International Committee of the Red Cross, Annual Report 2013, p. 183.

⁹ International Criminal Court, Office of the Prosecutor, Report on Preliminary Examination Activities 2013, para. 218.

¹⁰ See paragraph 6 *ibid*

¹¹ OHCHR have on file numerous cases collected by the teams from eyewitnesses, and victims, indicating systemic violations which occurred in many places, and some repeated in the same locations

¹² Estimates from public sources including Bulletin de Renseignement Quotidien (BRQ), Nigeria Social Violence Project -www.connectsaisafrica.org/wp-content/uploads/2014/10/Social_Violence_Summary_Web3.pdf

fighters then march on bodies to verify if the victims are dead. This video is consistent with information documented by OHCHR on the attack in Bama. OHCHR also received information that in Madagali, Adamawa state, in November 2014, Boko Haram assembled some 1,000 male villagers at the local primary and secondary school and shot them. Witnesses interviewed in Adamawa, Borno, and Yobe states recalled numerous cases of men and boys shot, hung, hacked to death, stoned and, in some cases, their bodies were stacked up in the streets, and their relatives compelled to identify them.

24. In Niger, OHCHR was informed of reports of killings, particularly in February 2015, in Bosso and Diffa, and in April 2015, in Karamga Island. A witness told OHCHR how her husband and 14 members of her family were executed by Boko Haram during the attack on Karamga. Other witnesses of this attack spoke of countless casualties and of dead bodies buried in eight mass graves with around 12 bodies in each. A detained Boko Haram member, aged 16, told OHCHR that his mission in Karamga was to “slaughter men”. Refugee witnesses from Damasak, Nigeria, recalled that in November 2014, fleeing men and boys were captured by Boko Haram, assembled under a tree, and were shot for refusing to join the group.

25. In Cameroon, Government figures indicate 360 civilians were killed by Boko Haram between April 2013 and July 2014¹³. OHCHR interviews indicate that over 770 civilians were allegedly massacred by Boko Haram in the three most affected divisions of Cameroon’s far north region – Logone and Chari, Mayo Sava and Mayo Tsanaga.

26. In Chad, Boko Haram allegedly shot and massacred over 24 people on the islands of Lake Chad, including in the localities of Kaiga-Kingiria, Kangelom, and Ngouboua, in February 2015.

27. A number of women and girls who were forced to marry Boko Haram fighters were killed when the group was forced to retreat by the joint forces, reportedly so that they would not remarry “infidels” or provide information to regional forces.

28. Boko Haram’s increased use in suicide bomb attacks on soft targets, such as markets, has led to more killings in the first half of 2015 compared to the last half of 2014. Between May and July 2015, such attacks resulted in over 800 deaths in Nigeria alone. On 11 July, in N’djamena, Chad, a man disguised as a woman detonated a bomb in a market place, killing 15 civilians. In July 2015, in Maroua, Cameroon, girls were used for the first time, in two separate incidents to detonate bombs, one in a market and another in a neighbourhood, killing some 20 people.

B. Abductions

29. Boys were mainly abducted for indoctrination into Boko Haram’s teachings, and to join its fighting force, while women and girls were abducted for sexual exploitation, forced marriages, labour and religious conversions to Islam. To date, the whereabouts of many of the victims is unknown, and those who attempted to escape were beaten and threatened with death.

30. In Nigeria, the abduction of 276 school girls from Chibok, Borno state, on 14 April 2014, is well-known. Fifty-seven have since managed to escape. OHCHR met several former abductees who escaped from Boko Haram or were rescued. The manner in which they were abducted, the duration of their captivity and the conditions, under which they were held, were diverse. But all referred to cruel, inhuman or degrading treatment, sexual

¹³ Information from the Bulletin de Renseignement Quotidien (BRQ)

violence and other forms of abuses described elsewhere in this report. Some abductees were held in their own communities while some were reportedly transported to other locations.

31. In April 2015, the Nigerian military rescued 293 abducted women and children from Boko Haram's stronghold in Sambisa forest. Many of the women and girls were reportedly pregnant. The army reported having rescued over 600 women and children since the counter-insurgency. The number of those who managed to escape is unknown. OHCHR was able to confirm that as of June 2015, 307 rescued women and children were enrolled in a Government-run 'de-radicalization programme'¹⁴.

32. OHCHR accessed the 'de-radicalization' facility and interviewed some women, several of whom were with their children. OHCHR observed an insufficient number of female counsellors and that informed and voluntary consent of beneficiaries of programme, seemed not to have been systematically requested. Overall, the victims expressed satisfaction with the facility, which included education and health care, including psychosocial support. Most of those interviewed were deeply traumatised and wanted to be reunited with their families, particularly missing children. One woman rescued from Sambisa said Boko Haram abducted six boys, including her two sons, aged seven and nine. When she asked where her children were, they told her "we will teach them our doctrine". Officials at the facility indicated that they were in the process of facilitating family reunification.

33. Abductions have also been documented in Cameroon and Niger. In Niger, OHCHR received reports that 200 women and children were abducted during the attacks on Bosso and Diffa, on 6 February 2015; Karama on 15 February; and Lamana and Ngoumao, on 15 June. Witnesses told OHCHR that Boko Haram fighters said they were abducting women because they were married to "unbelievers" and would be remarried to true Muslims.

34. Government sources in Cameroon reported that at least 250 people were abducted by Boko Haram in the far north region since December 2013. OHCHR received information that some 172 men and boys and more than 600 women and girls were abducted by the group in the same period.

C. Torture and other cruel, inhuman or degrading treatment

35. Civilians living in Boko Haram-controlled areas and villages and abductees have been subjected to various forms of torture and other cruel, inhuman or degrading treatment. Interviewees said women and children were subject to repeated beatings when they were unable or unwilling to walk to different Boko Haram strongholds, unable to recite the Koran, or refused to adopt the groups' beliefs.

36. Boko Haram ill-treated those in captivity through deprivation of food and water. Most of the victims interviewed by OHCHR in Nigeria, including a 14-year-old girl from Gwoza, recalled that they were deprived of food and water for up to two to three days. Some women reportedly starved themselves in order to give food to children.

37. Abductees rescued by the Nigerian army from Sambisa forest, told OHCHR that six boys who were suspected of stealing motorbikes and selling them had their hands cut off in the Boko Haram camp in Buniyadi, while one male abductee accused of fornication was buried up to his neck and stoned to death.

¹⁴ The Government of Nigeria is implementing a counter-insurgency programme which includes 'de-radicalization' that seeks to prevent recruitment by Boko Haram and to demobilize its members.

D. Sexual and gender-based violence

38. Since 2009, Boko Haram subjected women and girls to widespread and severe abuses, including sexual slavery, sexual violence, forced marriages, forced pregnancies and forced conversions. The group justifies such practices by its conception of the role of women and girls in society. In one video message in which the group claimed responsibility for the abduction of the Chibok girls, Shekau stated that “God instructed me to sell them, they are his properties and I will carry out his instructions”. In another message, he spoke of abducted girls as “spoils of war”.

39. One woman interviewed by OHCHR said she was coerced into marriage when Boko Haram attacked her village, and said that “they came back after killing the men and boys and told me that an Imam in their group would preside over the marriage ceremony”. OHCHR received reports of younger girls being married off to fighters and older women forced to work as cooks and cleaners.

40. Discussions with psychosocial counsellors in northeast Nigeria confirmed widespread sexual violence against women and girls held by Boko Haram. One counsellor reported that a girl who managed to escape narrated how Boko Haram fighters would sexually abuse her, telling her ‘you are the kind of girls we like’. Another interviewee told OHCHR that she witnessed the rape of girls as young as 15.

41. OHCHR documented cases of rape following forced marriages to Boko Haram members, during an attack on Bama, Borno state, Nigeria, in September 2014. Some 150 women at Dalori camp, which opened in April 2015 and hosts IDPs from Bama, had given birth after they escaped from captivity. OHCHR received information that a Nigerian refugee woman in Niger was abducted in Damasak, Borno state, on 28 November 2014, and raped by 40 men. A 14-year-old girl told OHCHR she was raped when Boko Haram attacked Damasak, in November 2014, and that, after killing the men and boys; they took the women and children to a house, and selected some 40 girls to marry their fighters. She was forcefully married and raped three times before escaping, during a “wedding”, with three other girls.

42. Numerous women and girls reported giving birth, or having miscarriages in extremely difficult conditions. For instance, during a Boko Haram attack on Gwoza, Nigeria, in September 2014, an interviewee said she gave birth in the bush while fleeing. According to numerous interviews conducted by OHCHR in Nigeria, several women died during childbirth or were forced to abandon their new born babies as they escaped attacks in Baga, Gwoza, and Michika. Women previously held in captivity recounted similar experiences. One woman rescued from Sambisa forest informed OHCHR that she witnessed births by 10 women while held captive in the various Boko Haram strongholds. Other women reported that while they trekked through Sambisa forest their babies died and were taken away by Boko Haram. OHCHR also received accounts of women whose newborn babies died, and who were compelled to carry them or abandon them without proper burial during the recapture of towns.

43. Due to stigma, cultural and religious norms, and deeply entrenched gender stereotypes, most victims have been reluctant to speak about sexual violence they have endured. Many are unwilling to return to their communities, fearing that they will bring dishonour to their families and be rejected by their communities. According to interviewees, women and girls who were abducted by Boko Haram generally faced worse stigmatization than men and boys. Pregnant women and women who gave birth whilst in captivity or shortly after rescue, are particularly stigmatized, together with their children.

E. Violence against children and use of children in hostilities

44. Boko Haram has recruited and used boys and girls for active hostilities, according to testimonies received by OHCHR. Some boys were forced to attack their own families to demonstrate loyalty to Boko Haram, whilst girls were forced to marry, clean, cook and carry equipment and weapons. OHCHR received consistent reports that some boys and girls were increasingly used as human shields and to detonate bombs¹⁵. In May 2015, for example, a girl around 12 years was used to detonate a bomb at a bus station in Damaturu, Yobe state, killing seven people. Similar incidents were reported in Cameroon and Niger. During attacks by Boko Haram, abducted boys were used to identify those who refused to join the group, as well as unmarried women and girls.

45. In Nigeria, abducted children aged between 6 and 15 described being surrounded by “many guns, and armoured vehicles”, and how Boko Haram beat them with cables for not praying or saying their prayers late. In April 2015, in Yola, Adamawa state, Nigeria, OHCHR spoke with four children, aged between 12 and 14, formerly abducted by Boko Haram and reunited with their families after escaping. They were deeply traumatised, having experienced sexual violence and exploitation. In Niger, drawings of refugee children receiving psychosocial support depict images of abuses and violations of human rights and IHL, some with words such as “we cut their heads” and “they burnt our houses, shops and cars”.

46. OHCHR documented many cases of separated children in Nigeria and Cameroon who had lost contact with their families when they were abducted or fled attacks, and who did not know whether their parents were still alive. As of August 2015, 40 per cent of the unaccompanied children in Dalori camp, Borno state, were orphans.

F. Attacks against civilian and protected objects

47. Boko Haram has targeted civilian objects protected under international law, including schools, mosques, churches, prisons, hospitals, markets, and has contaminated water installations.

48. In most Nigerian villages recaptured by military forces, all social infrastructure was reportedly destroyed. The education authorities reported that 338 schools were damaged or destroyed between 2012 and 2014 in Adamawa, Borno and Yobe states. In some areas, Boko Haram destroyed bridges linking villages, such as in Kubroshosh, Borno state. On 6 April 2015, in Kwajafa village, Borno state, Boko Haram set fire to a local mosque leading to an unknown number of casualties. In June 2015, they used IEDs and suicide bomb attacks on a church, in Postikum, Yobe state. On 7 July 2015, two separate bomb attacks on a restaurant and a mosque in Jos, Plateau state, killed 44 civilians.

49. In Cameroon, witnesses informed OHCHR that Boko Haram destroyed many schools, including in Amchidé and Ashigashia, leaving some 35,000 pupils out of school for the entire 2014-2015 academic year without access to education. Attacks on health centres have also limited the enjoyment of the right to health. In Cameroon, for example, 21 health districts, including 47 health centres which hosted IDPs before they fled further attacks by Boko Haram, were completely closed down in Fotokol, Guzdal, and Koza following attacks¹⁶.

¹⁵ This pattern increased in 2015 compared to 2014.

¹⁶ Information provided by authorities during a joint mission by the United Nations and ECOWAS in September 2013.

G. Destruction or appropriation of property

50. Victims consistently reported that Boko Haram systematically destroyed, appropriated, and looted homes during attacks. These practices were widespread and part of Boko Haram's fighting tactic to gain control over territory and prevent escapees from returning.

51. Entire villages, such as Lassa, in Borno state, Nigeria, were burned during attacks in December 2014. The extent of such destruction was recounted by numerous witnesses who escaped and returned after attacks. Many described how Boko Haram fighters appropriated and resided in their homes and stole their possessions and food. For example, in Mabas, Maxi, and Tourou, in Cameroon; Lamana and Ngoumao in Niger; and Baga, in Nigeria, thousands were left homeless and fled overnight following Boko Haram attacks¹⁷.

52. In Cameroon, the authorities informed OHCHR that some 322 houses were burnt by the insurgents in villages in the far north region and estimated that 1,922 cattle were stolen. The majority of witnesses interviewed by OHCHR in Cameroon said that their houses, motorcycles, food and cattle were stolen or destroyed.

VII. Human rights violations in the context of counter-insurgency operations

53. States have an obligation to respect and protect the right to life of individuals under their jurisdiction from attacks by armed groups. This includes taking measures to prevent the commission of offences, promptly, thoroughly and independently investigate human rights abuses and IHL violations and prosecuting those found responsible, providing adequate and effective remedies, and preventing the recurrence of violations. Niger and Nigeria have declared states of emergency in response to Boko Haram's attacks¹⁸.

54. Measures taken pursuant to derogations are lawful to the extent they comply with the conditions set out in international human rights law. Article 4 of the ICCPR provides for the possibility for States to temporarily adjust certain obligations under the treaty in time of "public emergency which threatens the life of the nation", provided a number of conditions are met, notably that measures are limited to the extent strictly required by the exigencies of the situation,¹⁹ that adequate safeguards are set up to protect against arbitrary and disproportionate interference with human rights²⁰ and that procedural safeguards shall

¹⁷ 40 per cent of registered IDPs in northeast Nigeria declared their houses totally burnt or destroyed by Boko Haram, 26 per cent said burnt or damaged, while 21 percent did not know what had happened to their homes- International Organization for Migration (IOM) June 2015 Displacement Tracking Matrix report

¹⁸ Niger declared a state of emergency in the region of Diffa on 13 May 2014. Nigeria declared Boko Haram a terrorist organisation on 4 June 2013 and a state of emergency in the Adamawa, Borno and Yobe states on 20 May 2013, which was extended several times, the most recent on 13 May 2014 for a period of six months.

¹⁹ This obligation reflects the principle of proportionality which is common to derogation and limitation powers. Any measures thus taken need to be in genuine response to the situation, aimed at the restoration of a constitutional order respectful of human rights and be fully justified by the circumstances. Therefore, the mere fact that derogating from a specific provision may, of itself, be justified by the exigencies of the situation does not obviate the requirement to demonstrate the necessity of the concrete measures taken pursuant to the derogation.

²⁰ Human Rights Committee, General Comment No. 29 'States of emergency (Article 4)', UN Doc. CCPR/C/21/Rev.1/Add.11, para. 4.

never be limited in a manner that would circumvent the protection of non-derogable rights.²¹

A. Lack of protection of civilians and killing of civilians during counter-insurgency operations

55. OHCHR received credible reports that security forces did not deploy in several cases where civilians came under attack by Boko Haram in Nigeria. Many interviewees described the security forces as dysfunctional, over-stretched, ill-equipped and therefore unable to mount an adequate defense, resulting in increased insecurity leaving civilians without protection. Witnesses consistently reported that security forces retreated from the line of fighting removing uniforms and military gear when Boko Haram attacked villages and towns. Often, security forces were dependent on communities for escape routes, for example, during an attack on Bama on 1 January 2015. Some reportedly retreated hours before the attacks occurred, raising concerns not only regarding protection of civilians but about possible collusion with Boko Haram fighters.

56. Attacks by security forces causing a high number of civilian casualties have been reported, most notably in Baga, Nigeria, in April 2013, where civilians were reportedly shot by security forces, and 642 people were displaced. Investigations into this event by reliable national sources determined that cases of extrajudicial and summary executions, torture, arbitrary detention, enforced disappearance, and rape had been committed by national security forces. The sources indicated that the full extent of these allegations could not be verified²². OHCHR also received allegations which include summary executions, torture, arbitrary detention and prolonged incommunicado and enforced disappearance committed by the national security forces in Baga and Bama as well as detainees starved and dehydrated in overcrowded cells leading to death in an army barrack. However, the full extent and timeline of these allegations could not be verified.

57. Witnesses informed OHCHR that the day before Boko Haram attacked the Island of Karamga, Niger, on 25 April 2015, they had reported the group's presence on the island to the army, but the action taken by the latter was insufficient to protect the area.

58. In Cameroon, witnesses interviewed by OHCHR referred to killings by defense forces during raids that either followed Boko Haram attacks or tip-offs from so-called "vigilante" group members. According to witness information received by OHCHR, Cameroon's military reportedly killed over 70 persons during such raids, with the highest number of casualties occurring in Bia, Double and Magdeme villages. Some of the deceased were reportedly buried in a mass grave in Mindif, an area which serves as a shooting site for the "Intervention Rapide" Battalion.

B. Enforced disappearances, arrests, detention and ill-treatment

59. In Cameroon, OHCHR documented more than 200 cases of Boko Haram suspects arrested and detained by defense forces in Amchidé, Ashigashia, Bia, Cheripouri and Délé. Numerous witnesses described an incident where several hundred Boko Haram suspects

²¹ This was emphasized by the Committee both in General Comment no. 29 States of emergency (Article 4)', UN Doc. CCPR/C/21/Rev.1/Add.11 and in its new General Comment no 35 on the liberty and security of person (Article 9), UN Doc. CCPR/C/GC/35.

²² Nigerian National Human Rights Commission, The Baga Incident and the Situation in the North-East Nigeria: An Interim Assessment and Report, June 2013.

were taken away in military trucks from Doublei and Magdeme during a raid conducted on 27 December 2014. Witness testimonies from Amchidé, Bia, and Cheripouri indicate that some Boko Haram suspects were handed over by local vigilante groups to the Intervention Rapide Battalion for the purpose of settling personal scores. Several interviewees said those who escaped custody had given bribes. According to Cameroonian authorities, measures were underway to accelerate prosecutions and release detainees held unlawfully.

60. In Nigeria, OHCHR received confirmation that in areas affected by Boko Haram, young men were not only exposed to the risk of being targeted by Boko Haram, but also of being arbitrarily arrested and detained by security forces, based on suspicions of being Boko Haram members by the army, police, and civilian vigilante groups. A victim recounted how he was mistaken for a Boko Haram member and detained by the military in Yola, Adamawa state. He also reported concerns regarding ill-treatment and conditions in detention, leading to an average of five deaths per day in the cell where suspected Boko Haram detainees were held and reportedly regularly beaten. Witnesses told OHCHR that Boko Haram suspects were deprived of food and water and that some drank each other's urine. OHCHR also received information on allegations of arbitrary detention and cases of torture in Borno state. Once access to detention facilities is granted by the authorities, additional information can be collected and these allegations possibly corroborated.

61. Following attacks by Boko Haram conducted between June and July 2015 in Ndjamena, Chad, the authorities imposed increased security and surveillance measures, affecting civilians, particularly foreigners. For example, OHCHR received reports that security forces arrested almost 400 foreigners representing 14 nationalities within a period of two weeks, either at spot checks of identities, during house searches, or on the street, following the attack on N'Djamena on 15 June 2015.

62. In Niger, security forces arrested an unspecified number of Boko Haram suspects, including children, in the Diffa region, between February and July 2015. In July 2015, for example, 40 juveniles suspected of being Boko Haram members were reported to have been detained in the prisons of Koutoukale and Kollo. Some were later transferred to the juvenile section of Niamey prison.

63. After these arrests, many family members have been unable to locate their relatives in detention. For example, of the 200 arrests by Cameroonian authorities mentioned above, OHCHR was able to confirm the location of only 20 of them in the four prisons hosting Boko Haram suspects in Maroua, Kouseri, Mokolo and Yagoua. The whereabouts of the other 180 remain unknown. In addition, NGOs documented approximately 260 arrests and OHCHR was able to confirm that only 45 individuals were at the central prison in Maroua. While official sources indicated that 25 persons have died in detention in Cameroon, 192 are still unaccounted for²³. Some witnesses in Nigeria recalled that young men who were Boko Haram suspects were deprived of their liberty by civilian vigilante groups or the army and never seen again, however due to fear of reprisals from either party to the conflict, there was a reluctance to report such incidents.

C. Use of civilian vigilantes

64. The inability of security forces to protect civilians from Boko Haram attacks and the deterioration of the security situation have led to the emergence of local self-defense groups, known as vigilantes, in northeast Nigeria and Cameroon. In both Northeast Nigeria

²³ Official Communiqué issued by the Ministry of External Relations of Cameroon, in Yaoundé, May 2015

and Cameroon, the vigilantes seem to operate with the tacit approval of the security forces, and it appeared that in both countries the authorities benefited from the activities of these groups against Boko Haram.

65. In Nigeria, the Civilian Joint Task Force (CJTF), otherwise known as Kato da Gora (literally translated as “man with a stick”), emerged in early 2013, in Maiduguri, Northeast Nigeria and is often described as a self-help/self-defence interest group. OHCHR received information on abuses committed by the CJTF, although the full extent of these allegations could not be verified.

66. OHCHR learned that the CJTF has assisted the Nigerian security forces with identifying and arresting Boko Haram suspects, controlling security checkpoints, providing information, monitoring the movement of people, and has also used firearms against Boko Haram in self-defense and to safeguard communities. OHCHR also received information on allegations of beatings, detention of suspects, bribery, food deprivation, killings and the recruitment of children by CJTF, despite the prohibition by the Government on the use or abuse of children and young persons in counter-insurgency efforts.²⁴ Some falsely identified Boko Haram suspects were allegedly killed by the CJTF, including, in at least one case, a person with a disability.

67. Some interviewees said that CJTF brought security and order in communities, whilst others, including children, indicated that they felt pressure from peers to join them or risk being considered Boko Haram suspects.

68. In areas, such as Bama, a witness noted that “entire communities, especially young and unmarried men and boys, joined CJTF. People were afraid to talk about Boko Haram, because they would kill them. The army would also kill you if you didn’t cooperate with them.” Many CJTF members in Baga and others thought to be members of Boko Haram were reportedly killed in retaliatory attacks when Boko Haram captured the town.

69. In Cameroon, similar vigilante groups were in place before Boko Haram attacks. They have been supported by national authorities and have played similar role of reporting Boko Haram suspects, or suspicious behaviour, and enforcing curfews.

D. Economic and social rights, and freedom of religion and belief

70. Motorcycle bans in Cameroon and Niger have limited the movement of teachers and school children. For girls, interruption in education has increased their exposure to child marriage, trafficking and other forms of gender-based violence. In Cameroon, the destruction and closure of schools resulted in more than 35,000 students staying out of school for the entire 2014-2015 academic year. In Nigeria, authorities reported that some 196 teachers were killed between 2012 and 2014.

71. The already fragile economic situation in some parts of the affected areas has been exacerbated by security and counter-insurgency measures of respective Governments, such as limiting circulation of traffic, closure of borders, banning of motorbikes, curfews, suspension of fishing, and the seizure of truckloads of goods on the grounds that they may be intended for Boko Haram. Consequently, many people have been deprived of their means of subsistence.

²⁴ Attorney-General of the Federation and the Minister of Justice Advisory on the Unlawful Use of Children in the Prosecution of Hostilities and Armed Conflict in the Northeastern States (21 January 2015).

72. The insurgency has also exacerbated tensions between communities and religions and increased the risk of further violence among communities. In July 2015, the Governments of Cameroon and Chad banned the wearing of full-face veils following successive suicide bomb attacks using women and girls wearing them, possibly raising issues with regard to freedom of religion and belief.

E. Measures taken by the Governments

73. Several measures have been taken by the governments of the affected States to deal with Boko Haram, including, in some cases, to address abuses and violations of international human rights and humanitarian law. However, some of these measures raise human rights concerns, in particular with regard to arrest, detention and fair trial guarantees for persons deprived of their liberty in connection with the counter-insurgency measures.

74. In Nigeria, the Government has set up committees to analyse the root causes of the violence and security challenges in the northeast and make recommendations²⁵. It also set up an inquiry following allegations of human rights violations implicating the army and CJTF, the military authorities concluded an inquiry, in December 2014, which established that allegations of extrajudicial executions by the army were sometimes perpetrated by Boko Haram elements wearing military uniforms and using arms seized from the military. It did not establish responsibility for State actors. Subsequent to the 2013 Joint Investigation Task Force audit of Boko Haram detainees and its recommendation for improved screening of suspects, the Nigerian Army released 100 men, 24 women, and 58 children suspected of terrorist activities early July 2015. A Victims Support Fund and a Presidential Initiative for the Northeast to support reconstruction, recovery and economic development were created in July 2014 and November 2014 respectively. In March 2014, Nigeria's Office of the Attorney General created a specialized section to handle terrorism-related cases to expedite the handling of prosecutions; however, OHCHR noted that prosecutions have not been commensurate with the high number of detained Boko Haram suspects.

75. In June 2015, the Government of Cameroon released 84 children who had been rescued by the military and kept at the Institut Camerounais de l'enfance for attending an alleged Boko Haram training camp, later confirmed to be a koranic school, in Guirvidig. In the Far North of Cameroon, military courts have been used to accelerate the trial of Boko Haram suspects, including doubling the number of court sessions per month from five to 10, and organizing sessions in other areas that hold Boko Haram detainees²⁶. The Government said it was due to the emergency created by the Boko Haram insurgency and the need to deal with large numbers of people arrested in the Far North, suspected of complicity with terrorist activities. OHCHR has stressed that the use of military or special courts to try civilians should be exceptional and limited, and justified for serious cases where civilian courts are unable to undertake trials²⁷.

76. In Niger, a specialized judicial centre was established within the High Court to handle terrorism cases, a counter-terrorism cell was created within the police, and

²⁵ The Galtimari Committee Report (2011) stated levels of responsibilities for the community, local, state and federal governments in tackling increasing violence and terror in the country, The Turaki Committee Report (2013) concluded that security agencies required urgent improvement in conditions of service, training and up-to-date equipment to face the security challenges confronting the country.

²⁶ Maroua and Yagoua.

²⁷ Human Rights Committee, General Comment No. 32 'Right to equality before courts and tribunals and to a fair trial (Article 14)'

legislation on terrorist offences was amended to clarify that anyone arrested on the issue of terrorism in the territory of Niger is under the jurisdiction of the judicial centre. However, OHCHR received information that the judicial centre entity created within the High Court was insufficiently staffed to fulfil its mandate. The police cell has reportedly also been unable to conduct preliminary investigations in accordance with the law due to shortage of staff. OHCHR received information alleging interference with the judicial process by the ministries of Interior and Defence, leading to the re-arrest of people acquitted by court for lack of evidence. Furthermore, the same ministries have reportedly rejected requests from the judicial authorities for investigations into allegations of torture and ill-treatment, stating this would demoralize the troops. Numerous Boko Haram suspects have remained in detention for prolonged periods and denied fair trial guarantees including the right to be promptly charged and appear before court.

77. In July 2015, Chad adopted legislation on counter-terrorism further to the June attacks by Boko Haram. It defines terrorist attacks in broad terms, reinstates the death penalty for terrorist acts, increases penalties for lesser offenses (from the current maximum of 20 years in prison to a life sentence), and extends the period of pre-trial detention from 48 hours to 30 days, renewable twice. These contravene international standards on fair trial including those provided for under the International Convention on Civil and Political Rights (ICCPR), to which Chad is signatory.

VIII. Conclusions and Recommendations

78. As documented above, information has been gathered on intentional killing and abduction of civilians and targeting of protected civilian objects, the use of children in hostilities, rape and other forms of sexual violence, and torture or ill-treatment by Boko Haram. The apparent systematic targeting of civilians or the widespread nature of the violations committed in territories where Boko Haram are active may, if established in a court of law, amount to crimes against humanity and war crimes if committed in connection with the armed conflict. These allegations should all be promptly, thoroughly and independently investigated, and those responsible, directly or as commanders or superiors, brought to justice. Special measures must be taken to protect the victims, especially child-victims and victims of sexual violence, and to ensure that they have access to full redress, including psychosocial support.

79. OHCHR has received preliminary information regarding allegations of serious violations of human rights and IHL committed by some Government forces during counter-insurgency operations, including extra-judicial killings, enforced disappearances, arbitrary arrests and detention, and ill-treatment. Failures to adequately protect people from Boko Haram were also documented. On the basis of the available information, OHCHR was not able to independently confirm all these allegations; however the gravity of the violations documented in some contexts underlines the importance of further investigations into these allegations. For these reasons, OHCHR recommends that prompt, thorough and independent investigation be undertaken.

80. On the basis of its findings and conclusions, OHCHR makes the following recommendations.

81. To the Governments of States affected by Boko Haram:

(a) Take immediate steps to strengthen and expand measures to protect civilians, including in the context of counter-insurgency operations and stop the use of vigilante groups therein;

(b) Increase access to justice and ensure accountability for all abuses and violations of international human rights law and international humanitarian law, regardless of the position or rank of the perpetrator, bearing in mind that there can be no amnesty for the most serious crimes; publish the outcome of investigations undertaken and provide adequate and effective redress for victims;

(c) Adopt or review counter-terrorism laws and policies to ensure compliance with international standards, including international human rights law and humanitarian law, notably the principles of legality and proportionality;

(d) Adopt a comprehensive strategy for countering violent extremism; ensure a gender sensitive approach to analyzing and responding to violent extremism and terrorism by ensuring effective participation of affected persons;

(e) Ensure the systematic and disaggregated collection of information on missing and deceased persons including the development of a database;

(f) Provide remedies for women and girls whose human rights have been violated, including for sexual violence, establishing a mechanism for nullifying forced marriages, provision of psychosocial counselling, rehabilitation and social reintegration, comprehensive sexual and reproductive health services, including HIV treatment, safe abortion services at a minimum in cases of rape, and to preserve the life and health of the woman or girl, with the full, free and informed consent of the woman or girl, and measures to address stigma against women and girl victims of sexual violence and their children;

(g) Take swift measures to prevent arbitrary arrest and detention in contravention to international obligations and increase capacity to conduct prompt, thorough and independent investigations and accelerate judicial processes. The use of military or special courts to try civilians must be exceptional, justified and limited to serious cases where civilian courts are unable to undertake trials;

(h) Develop and enforce rules of engagement and procedures for the protection of children to end the recruitment and use of children in hostilities by armed groups;

(i) Take measures to re-establish children's access to education, including for girls and particularly for those children displaced by the conflict. Rebuild schools destroyed during the attacks and secure access to schools, as well as the protection of teachers and students;

(j) Ensure a coordinated approach or return strategy outlining that adequate assessments be undertaken and protection measures implemented to ensure secure and safe returns; and

(k) Promote social cohesion in developing return, rehabilitation, reconstruction and reconciliation strategies to address tensions between communities.

82. To the international community

(a) Support the strengthening of international human rights monitoring mechanisms in collaboration with national human rights institutions, and of national human rights protection systems, including internal accountability mechanisms of security agencies;

(b) Strengthen the United Nations Country Team human rights capacity to respond more effectively and be able to systematically address allegations of human rights abuses and violations;

(c) Provide training for security forces, notably on respect of human rights in the context of counter-terrorism and preventing violent extremism, based on their

tangible commitment to comply with human rights norms and standards, as well as international laws;

(d) Support affected States to implement their international obligations, including ensuring accountability for violations and abuses of international human rights and humanitarian law; and

(e) Humanitarian assistance should be promptly provided to affected countries, and in particular address the urgent issue of food insecurity; assistance should also be provided in the area of reconstruction.
