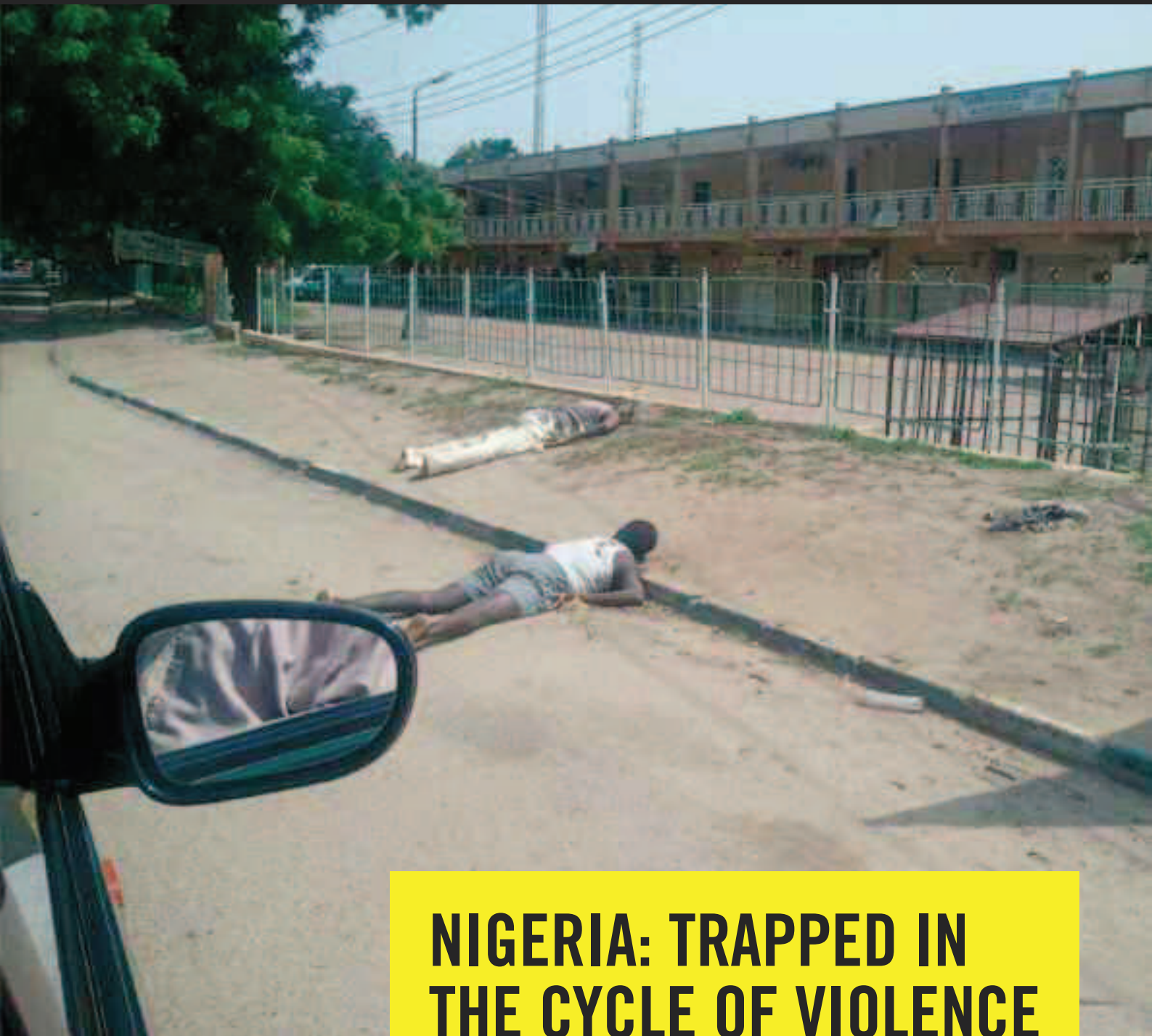


Flygtningenævnets baggrundsmateriale

Bilagsnr.:	259
Land:	Nigeria
Kilde:	Amnesty International.
Titel:	Nigeria: Trapped in the Cycle of Violence
Udgivet:	1. november 2012
Optaget på baggrundsmaterialet:	4. januar 2013



NIGERIA: TRAPPED IN THE CYCLE OF VIOLENCE

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First published in 2012 by
Amnesty International Ltd
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

© Amnesty International 2012

Index: AFR 44/043/2012 English
Original language: English
Printed by Amnesty International,
International Secretariat, United Kingdom

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Cover photo: Bodies dumped by the roadside on Sir Kassim Ibrahim Way, Maiduguri, Borno state, August 2012.
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1. INTRODUCTION

“We are in the middle of two things. If you take a look at your right or you take a look at your left both of them they are deadly. It’s a lose lose situation.”

A civil engineer, aged 32 from Maiduguri, whose brother was killed by security forces in June 2012.¹

Since 2009, acts of violence by the Islamist armed group known as Boko Haram have been carried out across northern and central Nigeria with increasing sophistication and deadliness.

Nigeria’s security forces have perpetrated serious human rights violations in their response. Hundreds of people accused of links to Boko Haram have been arbitrarily detained without charge or trial; others have been extrajudicially executed or subjected to enforced disappearance.

At the same time, the Nigerian government has failed to adequately prevent or investigate the attacks or to bring perpetrators to justice; and victims have not received prompt and adequate reparation and remedy.

The cycle of attacks and counter attacks has been marked by unlawful violence on both sides with devastating consequences for the human rights of the people trapped in the middle.²

I.S., an immigration officer working for the Nigerian Immigration Service (NIS), was shot dead at 5am on 22 June 2012 in Maiduguri, Borno state, as he was entering a mosque for early morning prayers. He was 44 years old and married with five children aged between one and 13. His family told Amnesty International they believe he was killed by members of Boko Haram because he worked for NIS and that he received threats before he was killed. No one has been arrested over his death.³

Almost a year earlier, on 29 July 2011, his younger brother, A.S., also an employee of NIS, was arrested in Maiduguri and has been in military detention since then. He has not been formally charged with a crime, although his family has been told he is accused of associating with a suspected member of Boko Haram. His mother was able to see him just once after his arrest, in December 2011; since then she has been refused every time she tried to visit. The family engaged a lawyer but according to the family the lawyer said they could not help because of the state of emergency (see box on page 8).⁴

The report urges Nigeria to ensure that all measures taken in the name of national security are implemented in accordance with international human rights law. Illegal killings and other abuses of human rights by armed groups do not absolve governments of the responsibility to conduct security operations in a manner that is fully consistent with their human rights obligations.

The report also calls on Boko Haram to cease all activities that result in human rights abuses.

HUMAN RIGHTS ABUSES BY ARMED GROUPS

While human rights treaties are directly binding as a matter of international law only on states, when a group such as Boko Haram engages in conduct that would constitute a violation of human rights if it were perpetrated by a state, Amnesty International condemns the acts as human rights abuses.

Amnesty International calls on all armed groups, including Boko Haram, to respect the human rights recognized under international law. Amnesty International also calls on armed groups to respect in all circumstances the fundamental principles of humanity reflected in the rules of international humanitarian law, a body of international law that does apply directly to armed groups but only in situations of armed conflict. The violence in Nigeria does not appear to have reached the level where it would constitute an armed conflict at this time.

Individuals acting on behalf of the Boko Haram or other armed groups that commit violent acts will also generally be acting in violation of Nigerian criminal law and so can be arrested and prosecuted where there is sufficient admissible evidence under Nigerian law for their crimes, in a manner that complies with Nigeria's international human rights obligations. Some acts by individuals acting pursuant to or in the furtherance of a policy of an armed group, or of a state, can also in certain circumstances constitute crimes under international law, such as crimes against humanity or, in situations of armed conflict, war crimes. Acts such as murder, torture, enforced disappearance and other inhumane acts may constitute crimes against humanity if committed as part of a widespread or systematic attack directed against any civilian population, particularly in furtherance of an organizational policy (of the state or armed group) to commit such attacks.⁵

This report documents human rights violations and abuses by state and non state actors in the context of insecurity and violence in northern and central Nigeria. It sets out recommendations for the Nigerian government, focusing on the government's obligations to protect people within its jurisdiction from human rights abuses by non-state actors and to ensure that human rights violations are not perpetrated by its security forces in the name of national security.

1.1 METHODOLOGY

This report presents research gathered by Amnesty International during five visits to Kano and Borno states and the Federal Capital Territory (FCT) between February and July 2012; and during numerous visits to Nigeria, including to Borno and Bauchi states and FCT, between 2010 and 2011. It also presents research gathered through telephone interviews and the continuous monitoring of media reports and government and Boko Haram statements.

Much of the report examines the human rights situation in Maiduguri, Borno state. Maiduguri has seen the highest number of deaths connected to the violence.⁶ It was beyond the scope of the research missions upon which this report is based to cover each state in Nigeria where attacks have taken place and where security forces have perpetrated human rights violations in their response. However, information received by Amnesty International and media reports monitored by the organisation give rise to serious concerns that the pattern of human rights violations by security forces – and human rights abuses by Boko Haram – is also occurring in other states in Nigeria.

Amnesty International delegates conducted detailed interviews with people who had been detained by the security forces, and with family members of people who had been arrested and detained by the security forces; who had disappeared in custody or who had been killed. Delegates also had detailed discussions with residents whose houses had been burnt down by security forces.

They interviewed victims of attacks by Boko Haram and family members of people who had been killed by suspected members of Boko Haram.

Delegates met with the Minister of Police Affairs, the Minister of Interior, the Senior Special Assistant to the Attorney General of the Federation and Minister of Justice, the Inspector General of Police, representatives from the Office of the National Security Adviser, the Defence Headquarters Spokesperson and the Commissioner of Police for Borno state. They also spoke to judges, magistrates, doctors, teachers, health and education professionals, journalists, lawyers and representatives of non-governmental human rights organizations.

Amnesty International requested but was not granted access to prisons, police stations, military and State Security Service (SSS) detention facilities in the course of this research.

Research for the report also draws on court cases, legislation, policy documents, medical reports and video and photographic evidence.

Amnesty International shared its findings with government authorities, both verbally and in writing in advance of publication. The organization requested further information on specific cases as well as inviting official response or comment. No responses were received.

Amnesty International thanks everyone who agreed to be interviewed by their researchers. In particular, Amnesty International wishes to express its gratitude to the victims and relatives of victims who agreed to share their stories.

Many of the victims, family members and witnesses who spoke to Amnesty International, as well as some of the lawyers and human rights defenders, asked not to be named in the report for fear of reprisals from state or non-state actors. Consequently, names of several witnesses have been changed or omitted for their own protection.

2. BACKGROUND

“Everything escalated because of the extrajudicial execution of Yusuf.” Lawyer, Maiduguri.⁷

The Islamist armed group Jamā'atu Ahlis Sunnah Lādda'awatih wal-Jihad [People Committed to the Propagation of the Prophet's Teachings and Jihad], commonly referred to as Boko Haram [Western education is forbidden],⁸ was established in 2003 under the leadership of Islamic cleric Mohammed Yusuf.⁹

Yusuf preached that the country's ruling class was marred by corruption and advocated for the creation of an Islamic state (an Islamic government and Islam as a state religion).¹⁰

On 11 June 2009, a group of Yusuf's followers who were part of a funeral procession became involved in an argument with officers from a joint police and military unit in Maiduguri, called Operation Flush.¹¹ The officers opened fire on the group and 17 people were injured.¹² Following the shooting, Mohammed Yusuf released several videos vowing to take revenge.¹³

On 26 July 2009, members of Boko Haram attacked a police station in Bauchi, Bauchi state. Over the next few days Boko Haram carried out coordinated attacks on police and government targets in Borno, Bauchi, Yobe and Kano states. Clashes between members of Boko Haram and security forces continued all week, with open gun battles in the street. The police and military were implicated in serious human rights violations including summary executions and other unlawful killings. By the end of the week more than 800 people had been killed by the police and Boko Haram, including over 30 police officers,¹⁴ members of Boko Haram who had been actively taking part in the fighting, other apparently unarmed people, and bystanders caught in the cross-fire. In February 2010, the Al Jazeera news channel broadcast video footage, taken in July 2009 in Maiduguri, which showed police shooting and killing unarmed people who were lying on the ground.¹⁵

Mohammed Yusuf was arrested on 30 July 2009 in Maiduguri and was filmed and interviewed while in custody. Later that day the police announced that he had been killed while attempting to escape. Photographs of the body suggested that he had been handcuffed at the time of his death.¹⁶

On 3 August 2009 then President Yar'Adua instructed the National Security Adviser to investigate Yusuf's death. In a statement given at the Human Rights Council in Geneva on 13 August 2009, the then Attorney General of the Federation and Minister of Justice, Michael Kaase Aondoaka, said that Mohammed Yusuf had been “killed in police custody.” He also said that the Nigerian government “condemns in its entirety, the unfortunate circumstances that led to the death of Mohammed Yusuf in police custody.” He added that a committee had

been set up in August 2009 to “investigate the circumstances leading to the crisis including the alleged killing of the leader of Boko Haram and the slaughter or killing of over 17 police officers.”¹⁷ In 2012, in response to the findings of a subsequent committee established to look into the violence, the government denied that Yar’Adua had ordered an enquiry, stating that the then President had instead ordered police to investigate the incident.¹⁸ Five police officers, including two Assistant Commissioners of Police, were charged in July 2011 with the unlawful killing of Mohammed Yusuf.¹⁹ Four of the police officers were released on bail while one was remanded in prison.²⁰ The case is still ongoing. Little has been done to bring to justice those people responsible for the other killings.

In August 2009, the then Governor of Borno state also established a state level Committee of Inquiry into the July 2009 crisis. The report of the inquiry was never made public.²¹

By July 2010, Mohammed Yusuf’s followers had regrouped and the violence quickly escalated. Abu Shekau, previously deputy to Yusuf, is believed to be the current leader of the group. On 21 June 2012, the US Department of State designated three Boko Haram leaders, including Shekau, as ‘Specially Designated Global Terrorists’ triggering sanctions under US law.²²

STATE OF EMERGENCY

In January 2012, President Goodluck Jonathan declared a state of emergency in 15 Local Government Areas (LGAs) across four states.²³ Under the Constitution, a state of emergency permits the president to confer additional powers to “duly authorized persons” or make any other order “necessary or expedient for the purpose of maintaining and securing peace, public order, public safety and good governance in the emergency area”²⁴ and to derogate from particular sections of Nigeria’s constitution.²⁵ The Emergency Powers Regulations, which set out the additional powers granted under the state of emergency, were published on 27 April 2012. Among the provisions are the detention of suspects; the taking of possession or control of any property in the emergency area; the entry and search of any premises; and the payment of compensation and remuneration to people affected by the order. The state of emergency had a six months time limit under the Constitution (if not renewed by the National Assembly) which elapsed at the end of June 2012. The National Assembly did not renew the declaration, and the President officially recognised the end of the state emergency and the cessation of application of the Emergency Powers Regulations on 18 July 2012.

On 2 August 2011, the Secretary to the Government of the Federation inaugurated a Presidential Committee on the Security Challenges in the North-East Zone of Nigeria. The Committee submitted its final report to the President in September 2011. In May 2012, a White Paper on the Report was published, listing key findings and recommendations of the Committee and the government’s response to them.

In May 2012, the then Minister of Defence announced that Nigeria had signed Memoranda of Understanding (MOU) with 17 countries “on military cooperation for joint military exercises and exchange of training programmes” including with Ghana, China, Russia, United States of America, Democratic Republic of Korea, Sao Tome and Principe, Liberia, India, United Kingdom, Germany, France, Pakistan, Belarus, Brazil, Romania, Turkey and Serbia.²⁶

JOINT TASK FORCE

On 12 June 2011 the President established a Joint Task Force (JTF) in Borno state, called Operation Restore Order, mandated, to “restore law and order to the North Eastern part of the country with emphasis on Maiduguri.”²⁷ It comprises personnel from the Nigerian Armed Forces, the Nigeria Police Force (NPF), the Department of State Security (DSS), the Nigerian Immigration Service (NIS) and the Defence Intelligence Agencies (DIA). The JTF commander is seconded from the military, which appears to dominate the JTF.

The Rules of Engagement of the Joint Task Force are not publicly available. Many human rights defenders have complained of not knowing what the JTF are allowed to do, particularly under the state of emergency.²⁸

In the White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, the Committee noted “allegations of high-handedness against the JTF, bordering on rape, destruction of property belonging to sect members, extrajudicial killings and harassment and intimidation of Maiduguri residents.”²⁹ One of the Committee’s recommendations was that the “Rules of Engagement should be reviewed to reflect the low intensity nature of the military operations, not only in Maiduguri but in all similar operations.” The government “noted” the recommendation and said that there are “steps being taken by the Defence Headquarters to investigate the allegations and deal with it appropriately.”³⁰

To date, Boko Haram has claimed responsibility for attacks in Bauchi, Borno, Gombe, Kaduna, Kano, Mina, Plateau, Sokoto and Yobe states and the Federal Capital Territory. The attacks have not only targeted members of the police and military: civilian government officials, journalists and religious leaders have also been killed, and churches, schools, bars and media houses have been targeted. Prisons have been attacked, with inmates freed and prison guards killed. In 2011, Boko Haram claimed responsibility for bombing the UN offices in Abuja, the Nigeria Police Headquarters and the swearing-in ceremony of President Goodluck Jonathan. Boko Haram has killed more than 1,000 people since 2010, including over 400 people who were not members of the security forces.³¹

Boko Haram’s reported demands include the unconditional release of all imprisoned members; the punishment of all involved in the killing of Muhammad Yusuf; and the full implementation of Sharia law.³²

3. ATTACKS BY BOKO HARAM

“...our war is with the Government that is fighting Islam with the Christian Association of Nigeria (CAN) that are killing Muslims ... and those who helped them to fight us even if they are Muslims. Anyone who is instrumental to the arrest of our members is assured that their own is coming.”

Message from the leader of Boko Haram, Imam Abubakar Muhammad Abubakar bin Mohammed [also known as Abu Shekau].³³

Since July 2009, Boko Haram, and individuals or groups claiming to be Boko Haram, have claimed responsibility for bombings and gun attacks across northern and central Nigeria. The group has killed Muslim and Christian clerics and worshippers, politicians, journalists and lawyers, as well as police and soldiers. Boko Haram has claimed responsibility for bombing the UN building and the National Police Force Headquarters in Abuja. The group has attacked churches, school buildings, newspaper offices and prisons, freeing hundreds of prisoners.

Attacks targeting civilians demonstrate disregard for the right to life. All of the violent acts perpetrated by Boko Haram constitute crimes under Nigerian law that the authorities should prevent and prosecute through the ordinary systems of law enforcement and criminal justice, in a manner compliant with Nigeria's international human rights obligations. Attacks targeting civilians and civilian buildings are also contrary to the fundamental principles of humanity as reflected in international humanitarian law. When perpetrated as a part of a widespread or systematic attack against a civilian population, such acts can also constitute crimes against humanity, when they meet the requirements of Article 7 of the Rome Statute. This may be the case with respect to the Boko Haram campaign of attacks deliberately targeting Christian civilians.³⁴

A CLIMATE OF FEAR

The use of violence by Boko Haram in response to adverse comment or criticism and to deter anyone from assisting the security forces means that many people are too frightened to talk openly about Boko Haram abuses. Some people have fled their homes, neighbourhoods and even cities following direct threats or for fear of being caught up in the violence. A resident of Maiduguri told Amnesty International that in his area Boko Haram had warned residents “that if you're not comfortable living there [with them], you better leave.”³⁵

Intimidation of the general population has undermined people's rights to privacy and family life, damaged community ties and family networks, and consequently significantly impaired many people's quality of life.

The climate of fear and insecurity has forced many journalists, lawyers and human rights defenders to scale down or stop their activities, or flee the area entirely.

Amnesty International interviewed several lawyers who had closed their practices or relocated to Abuja, taking only a few cases in Maiduguri. Others had ceased working on criminal and human rights cases for fear of reprisals.

One lawyer told Amnesty International: "How do you work without compromising your own safety? Five months ago, we had access to detention facilities, I left the police station and 30 minutes later it was attacked. I don't know where to start. I don't know who is protecting you and who is after you so I have not been following cases for a while. I don't know who to trust."³⁶

MAKING THREATS AND CLAIMING RESPONSIBILITY

Boko Haram – or people claiming to be Boko Haram – often issue warnings and threats to individuals, groups and institutions that they intend to target. Some are made via private correspondence such as by telephone or letter. Others are made publicly via video which is then posted on YouTube or in a statement read over the telephone or sent by email to journalists. Boko Haram – or people claiming to be Boko Haram – have distributed flyers and put up posters with messages or warnings for local residents. The same methods have been used to claim – or deny – responsibility for specific attacks and acts of violence.

In many other incidents no one has claimed responsibility and without investigation and a criminal trial it may not be possible to determine precisely who was responsible. Often, attacks are attributed to Boko Haram without clear evidence but on the basis that they resemble their pattern of behaviour.

3.2 UNLAWFUL KILLINGS

Since June 2010, people claiming to be Boko Haram have killed over 1,000 people in attacks and assassinations. While most of these attacks targeted members of the security forces, killing hundreds of police, soldiers and SSS, others have targeted local government and state government officials, clerics and Islamic scholars, lawyers, journalists and traders, as well as unarmed civil defence and immigration officials.³⁷ Some killings have been carried out in the street, by shooting or detonating explosives, with perpetrators escaping on motorbikes or *Keke Napep* [tricycles]; others have been carried out in people's homes, outside mosques and at markets. Boko Haram has also claimed responsibility for gun and bomb attacks on churches, busy markets, shopping centres and bars.³⁸

On 28 January 2011, eight people were shot dead, including Engr. Fannami Gubio, the All Nigeria People's Party (ANPP) candidate for Borno state governor, and Alhaji Godi Modu Shriff, the brother of the current governor of Borno state. Boko Haram claimed responsibility for the attacks.³⁹

On 6 June 2011, Muslim cleric Ibrahim Birkuti, who had been critical of Boko Haram, was killed by unidentified gunmen outside his house in Biu, Borno state.⁴⁰

On 28 August 2011, the UN headquarters in Abuja was bombed when a car drove into the reception of the building and exploded, causing a wing of the building to collapse. Twenty-three people were killed, including 11 UN staff; 116 others were injured. Boko Haram claimed responsibility in a telephone conversation with reporters.⁴¹

On 4 November 2011, at least 100 people were reported killed in gun and bomb attacks in Damaturu, the Yobe state capital. Boko Haram members attacked three police stations, including Yobe state police headquarters, two banks and at least six church buildings. A member of Boko Haram claimed responsibility and said that they would continue attacks on federal government until security forces stop the use of excessive force on their members.⁴²

According to information received by Amnesty International, five workers at the Kasmi bakery were killed in Maiduguri on 19 April 2012.⁴³

KANO, 20 JANUARY 2012

On 20 January 2012, at least 186 people were killed in Kano when members of Boko Haram attacked security forces at eight different locations, including the zonal and state police headquarters and that of the State Security Service (SSS).⁴⁴ The bombings were followed by an exchange of gunfire between Boko Haram and security forces lasting several hours. Among those killed were police officers, their relatives and residents living nearby. A journalist with the news station Channels, Enenche Akogwu, was also shot dead.⁴⁵

Several Kano residents and civil society representatives told Amnesty International they believe that many of the people who died that day were caught in cross-fire between security forces and Boko Haram after the initial explosions, or shot by security forces after the attack.⁴⁶

A journalist and activist based in Kano told Amnesty International: "After the attack at the SSS office, [the security forces] came out and just started shooting sporadically. Shooting at the gate, my friend who is a banker died like that, he was coming back from work and was hit by a stray bullet."⁴⁷

The official number of dead was put at 186; the actual figure may be far higher. One journalist told Amnesty International: "We can't get an exact figure of the numbers killed, some were killed within their areas and people just took the bodies and buried them, some got injured and managed to leave then died later... In the two morgues – Amina Kano teaching hospital and MK – there were 186 dead."⁴⁸

ATTACKS ON INFORMANTS

"There was a notice: 'if anybody should show [security forces] where [Boko Haram] are at or tell security operatives they will be killed.'" Lawyer, Maiduguri.⁴⁹

Local human rights defenders told Amnesty International that several people have been killed by Boko Haram because they were said to have given information to the security forces about Boko Haram members or assisted in the arrest of members. Boko Haram has itself issued warnings to people against passing information to the security forces.⁵⁰

Residents of Maiduguri told Amnesty International that following the 2009 crisis, Ward Heads were instructed to turn-in any Boko Haram member in their domain or they would lose their position. According to one Maiduguri elder “Ward Heads had been going house to house showing security operatives where Boko Haram members live. Most members ran out of the state [in 2009] and their houses were boarded up. Then they came back and they killed Ward Heads.”⁵¹

On 29 Oct 2011, Muslim cleric Sheikh Ali Jana’a was killed outside his home in Maiduguri. Jana’a is reported to have provided information about Boko Haram to security forces.⁵²

On the night of 1 February 2012, seven male residents of Kwar Maila Ward, Maiduguri, were reportedly killed by having their throats cut in their homes by people believed to be members of Boko Haram. The spokesperson of the JTF confirmed the incident in a statement to journalists.⁵³ According to a Maiduguri based human rights activist interviewed by Amnesty International, six people died instantly and one later in hospital.⁵⁴ A Boko Haram spokesperson later claimed responsibility in a teleconference with journalists, saying, “We have earmarked 30 of them for execution because they betrayed our group. They exposed our 11 members who were summarily shot dead by the Joint Task Force on Saturday... So, we have succeeded in killing seven and we are sure of killing the remaining 23 any moment from now.”⁵⁵

On 20 February 2012, over 20 people were reportedly killed when Baga market in Maiduguri was attacked by gunmen and several bombs were detonated. Boko Haram claimed responsibility two days later in a telephone statement to journalists, in which Abul Qaqa, the group’s purported spokesperson, said the attack had been carried out because traders from the market had assisted security forces in the arrest of one of their members.⁵⁶

On 1 August 2012, Boko Haram released a statement threatening women who inform on them. Abul Qaqa stated: “This is a final warning to all of them. By God, whenever we catch any woman spying on us, we would slaughter her like a ram.”⁵⁷

3.3 ATTACKS ON CHURCHES

Over 20 churches have been attacked and over 200 people killed in attacks on churches across central and northern Nigeria since 2010. Boko Haram has claimed responsibility for many of the attacks⁵⁸ and has on numerous occasions explicitly stated their intention to target Christians.

At least three bombs exploded on 24 December 2011 in Jos, the Plateau state capital, killing an estimated 80 people and injuring many more. Boko Haram claimed responsibility. Dozens of other people were killed in gun and machete attacks in a wave of religious and ethnic violence that followed. Several buildings were burned down and businesses were closed for days.⁵⁹

On 25 December 2011, Boko Haram bombed three churches killing 43 people in Saint Theresa Catholic Church in Madalla, a suburb of Abuja.⁶⁰ Bombs were also detonated in churches in Jos and Damaturu. Boko Haram claimed responsibility and implied that the purported motivation for the attacks was collective retribution for alleged government abuses against Muslims.⁶¹

On 10 June 2012, a suicide bomber drove a car into Christ Chosen Church in Jos, killing at least one other person. The Pastor of Christ Chosen Church, who was injured in the explosion, told Amnesty International: “somebody drove in ... they hit the church, the bomb exploded...everything went down... Passers by took me to hospital – people around the church came to pick us, neighbours came. They put me in the vehicle and took me to hospital. Some members even used motorcycles. Some members are still taking treatment there. I stayed [in hospital] for close to a month, I sustained injuries in my hand and leg and my ribs... 100 plus people were injured, 40 seriously, five very seriously, one later died...Now we have no place of worship, our vehicles were burnt to ashes, our property, all the instruments, everything is burnt. Now we are just worshipping in members' compounds. People are scared, some are still very much afraid.”⁶²

In a statement to journalists, Boko Haram claimed responsibility for the 10 June attack, stating, “We are responsible for the suicide attack on a church in Jos... The Nigerian state and Christians are our enemies and we will be launching attacks on the Nigerian state and its security apparatus as well as churches until we achieve our goal of establishing an Islamic state in place of the secular state.”⁶³

On 17 June 2012, Boko Haram bombed three church services in Kaduna, killing at least 21 people. Revenge attacks between Christians and Muslims resulted in the deaths of at least 70 more.⁶⁴

COMMUNAL AND SECTARIAN VIOLENCE IN THE MIDDLE BELT

Many of the churches that were attacked were located in Nigeria's middle belt – an already volatile region where attacks and counter-attacks between Christians and Muslims and different ethnic groups have left thousands dead. Since 1999, over 10,000 people have been killed in inter-communal violence in the north and in the middle-belt.⁶⁵ In Plateau state, the sight of some of the most protracted communal and sectarian violence, there have been significant incidents of violence in 1994, 2001, 2004, 2008, 2010 and 2011, resulting in the deaths of more than 2,000 people.⁶⁶ Yet the Nigerian authorities have failed to bring suspected perpetrators to justice or to take effective measures to prevent future violent clashes.⁶⁷ Very few people have been convicted of crimes related to the violence. Victims of the violence have not received redress or reparation, including compensation, leaving people destitute and further stoking feelings of resentment and desperation.

Several state and federal inquiries into communal and sectarian violence have been established but their findings and recommendations have never been implemented.⁶⁸

The attacks have led to the closure of churches and impaired people's right to freely practice their religion. A pastor of a church in Bauchi told Amnesty International, “Over 30 churches have closed in Borno, so people don't have a chance to serve God the way they want. This is a crucial problem happening in the north... [My] church in Bauchi was threatened... We were told [by police] to work on the issue of security by increasing the height of our own fence, but we need blocks, barbed wire, building materials. We are only able to do a little... there are only a few of our membership, many people have already left the place, we are just left at the mercy of god.”⁶⁹

3.4 JOURNALISTS UNDER ATTACK

“At the station we know we are living between death and life.” Radio presenter, Kano⁷⁰

Boko Haram has targeted media houses in bomb attacks and has killed and threatened journalists.

Attacks on journalists, including murder, intimidation and threats, as well as the bombing of media houses, have undermined independent journalism, freedom of expression and consequently the free flow of information in Nigeria.

ATTACK OF THISDAY NEWSPAPER

On 26 April 2012, Boko Haram bombed the offices of the Nigerian newspaper *Thisday* in Abuja and a building housing three newspapers, including *Thisday*, in Kaduna. At least seven people died. Boko Haram claimed responsibility in an interview with the online newspaper *Premium Times*, saying “We have repeatedly cautioned reporters and media houses to be professional and objective in their reports. This is a war between us and the Government of Nigeria; unfortunately the media have not been objective and fair in their report of the ongoing war, they chose to take sides.” Boko Haram went on to list a number of allegedly incorrect reports about their activities or statements.⁷¹

On 1 May 2012, Boko Haram issued a further warning to 11 national and international media houses: “We will take revenge on them by God’s grace, some of these media houses have been categorized into three groups. The first group is the likes of *Thisday* whose offences are big. The second group we will also attack soon are *Punch*, *Daily Sun*, *Vanguard*, *Guardian*, *Nation*, *Tribune* and *National Accord*, which are all newspaper houses. There is also *Voice of America (VOA) Hausa radio*. All these media houses we will attack them including their staff and offices, by God’s grace. *VOA Hausa* for instance has recently started campaigning for people to support the government against us by exposing us. The next group that are on the verge of joining this list who if they are not careful we will attack very soon include *Leadership*, *Daily Trust*, *Peoples Daily* and *RFI (Radio France international)*.”⁷²

The threats and intimidation mean that journalists are increasingly unwilling or unable to report news stories about the security situation. Journalists told Amnesty International that the lack of access to a Boko Haram spokesperson meant they were unable to seek their official response.⁷³

Boko Haram has issued several threats publicly and directly to journalists, warning them to change their reporting or face attack. Several journalists interviewed by Amnesty International said they had received direct or indirect threats from Boko Haram following stories they had published or broadcast. One Kano based journalist told Amnesty International: “Once we ran a story that JTF arrested five Boko Haram and the next day my colleagues were telling me that Boko Haram called some of my colleagues warning us. One local station doesn’t cover anything concerning this issue because of that threat.”⁷⁴

On 22 October 2011, Zakariyya Isa, a cameraman with the Nigerian Television Authority was shot dead in front of his house in the Bulunkutu area of Maiduguri. Boko Haram claimed responsibility for the killing; Abul Qaqa, the group’s spokesperson, said he was killed for being an informant.⁷⁵

Another journalist living in Kano told Amnesty International: “We live under fire every day. As we go out, we have the fear of being attacked or running into a confrontation [between Boko Haram and the security forces].”⁷⁶

FREEDOM OF EXPRESSION

Article 9 of the African Charter on Human and Peoples’ Rights guarantees the right to receive information and to express and disseminate opinions. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the rights to hold opinions and freedom of expression; “this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

The Nigerian government is obliged not only to refrain from itself violating the right to receive information and to express and disseminate opinions, but also to protect journalists and media houses against whom specific threats of violence have been made by non-state actors such as Boko Haram.

Faced with the threat of human rights abuses including violations of their rights to life and personal security, many journalists are now reluctant to visit scenes of attacks by either Boko Haram or the military. Others are leaving affected areas altogether.

One Kano based journalist told Amnesty International “Before [the *Thisday* bombing] we would go to scenes [of JTF attacks] and talk to people [to see if what the JTF say is true]...but now I wouldn’t go to dig further, they [Boko Haram] have come out to say the media are their enemies. So why go to an area suspected to be [full of Boko Haram]?”⁷⁷

CHALLENGES TO JOURNALISM FROM THE STATE

While the main risks faced by journalists appear to come from Boko Haram, journalists also face challenges originating with government security forces. One told Amnesty International: “Being a journalist is very dicey. We are in a serious dilemma. Even the security man can shoot you. It’s not easy to operate here.”

A journalist described an incident with the Kano State Security Service (SSS) to Amnesty International: “After the bomb blast at the SSS office, I went there. The SSS guy at the gate said I could pass... he let me pass and another SSS guy shot at me and shot again. He said ‘down, lie down,’ the other guy said ‘it’s OK’ and he said, ‘don’t trust anyone’ and he fired in the air.”⁷⁸

Journalists described operating in a context of fear and told Amnesty International: “We’re accused on both sides. Boko Haram has said they are not happy with reporting. The IG [Inspector General of Police] has also [said] we are giving too much attention to insurgents.”⁷⁹

The Nigerian authorities are reluctant to give information about incidents and are believed to regularly under-report the number of casualties. A journalist in Kano told Amnesty International, “Security agencies threaten you or deny you a balance for news. When you call to confirm they don’t cooperate. They conceal the true information. Usually the official numbers of dead given [by security forces] is much lower. They will say the others are wounded. The Police PRO [Public Relations Officer] will say a different number of people killed. It’s the same with the military [JTF] spokesperson.”⁸⁰

3.5 SCHOOLS BURNED DOWN

“When they attacked the school they burnt everything, the whole classrooms. They burnt the whole classes and lots of materials, nothing was left. Even school records – everything was burnt... No one ever did any investigation as to who burnt the school.” The headmistress of a Maiduguri school that was burned down in 2009.⁸¹

Dozens of schools have been attacked and set on fire in Maiduguri, leaving thousands of children unable to continue their education.⁸² Boko Haram has claimed responsibility for several of the attacks.

Between 21 February and 1 March 2012 alone, 10 primary schools were attacked in locations across Maiduguri. In most attacks, the school buildings were so badly damaged that they could no longer be used. Gwange One Primary School, Junior Secondary School and Gwange Three Primary School were attacked on 28 February; Success Private School and Sunshine Primary School were attacked on 1 March 2012; Gomari Custin, Kulagumna Primary School, Budum Primary School, Abba Ganaram One and 11 Primary School, Ngomari London Chiki Primary School and Maiduguri Experimental Primary School were attacked in February 2012.⁸³ Boko Haram claimed responsibility for some of the attacks, saying they were in retaliation for the arrest of teachers of *Tsagaya* [Quaranic] schools by the JTF.⁸⁴ Boko Haram spokesperson Abul Qaqa said “We attacked the schools because security operatives are going to Islamiyya schools and picking teachers. We are attacking the public schools at night because we don’t want to kill innocent pupils. Unless [Islamic school] teachers are allowed to be, we would be compelled to continue attacking schools.”⁸⁵

When schools are burned down, it is not only the classrooms that are lost, leaving children with nowhere to learn, but also all the teaching materials and school records. Some schools have been burned two or three times since 2009. Those attacked in 2009 are only just being rebuilt three years later, with pupils receiving lessons in temporary shelters in the meantime.

The destruction and damage to schools has undermined the right to education for thousands of children. Even before the attacks on schools began, the widespread insecurity generated by the constant attacks and fighting had led many parents to send their children away or leave the city, disrupting their children’s education. Many of the children that remain are traumatised and live in fear. The headmistress of one primary and secondary school in Maiduguri told Amnesty International that, of approximately 1,300 children enrolled in her school, only 500 are now attending. The rest have fled with their parents or been sent away. She said many of the children that remain are disturbed: “These children, they are shocked. Even as we are taking our lessons, if they hear the sound of guns they will just run away. Their ears are always outside [of the school] listening to what is happening. If anything happens they will just disappear.”⁸⁶

The attacks on schools constitute a criminal offence under Nigerian law. Deliberately damaging school buildings and thereby leaving schools unable to function or children too afraid to attend school constitutes a serious abuse of human rights, including the right to education. The government of Nigeria is obliged under international human rights law to ensure the right of everyone to education.

4. NIGERIA'S SECURITY FORCES: VIOLATING HUMAN RIGHTS WITH IMPUNITY

“[The soldier] put his gun in [my husband's] left ear and said ‘say your last prayer,’ then he put the gun in his right ear and said ‘say your last prayer’ and then they put the gun in his nose and said ‘say your last prayer.’”

F.B. aged 40, resident of Kaleri, Maiduguri. She now lives with her seven children in a shack she has made from the ruins of her former home after it was burnt down by the JTF in July 2011.⁸⁷

Amnesty International has documented serious human rights violations perpetrated by Nigeria's security forces in the name of countering the threat to the public posed by Boko Haram.

Witnesses interviewed by Amnesty International described seeing people who were clearly no threat to life – unarmed, lying down or with their hands over their head or cooperating – shot at close range by the security forces.⁸⁸

Amnesty International also documented cases of people seen being arrested by the police or Joint Task Force (JTF) who were then found dead, or who were subjected to enforced disappearance.

Amnesty international interviewed people from four communities who claim that members of the JTF set fire to their houses, shops or cars, often following an attack in their area attributed to Boko Haram, and in some cases seemingly as a punitive measure.

Hundreds of people accused of having links to Boko Haram have been arbitrarily detained by the JTF, police and SSS. In many of the cases they have remained in detention for lengthy periods without charge or trial, without proper notification of family members, without being brought before any judicial authority, and without access to lawyers or the outside world.

Investigations have rarely been carried out into allegations of violations by the security forces; in the few cases where investigations have taken place, the findings have not been made public.⁸⁹

People are facing human rights violations at the hands of the very state security forces mandated with their protection.

5. EXTRAJUDICIAL EXECUTIONS AND OTHER UNLAWFUL KILLINGS

“They are just killing men, any youth from 16 years old, if something happens in that area you are gone.” Lawyer, Maiduguri.⁹⁰

Amnesty International received consistent accounts of witnesses who saw people summarily executed outside their homes, shot dead during operations, after arrest, or beaten to death in detention or in the street by security forces in Maiduguri.

Amnesty International found that the security forces appear to have repeatedly used firearms against people when there is no imminent threat of death or serious injury, and have intentionally used lethal force in circumstances other than when it was strictly necessary to protect life. Such use of firearms and deliberate killing are inconsistent with international standards on use of force in law enforcement, and violate the right to life.⁹¹

Under international law, every use of lethal force in law enforcement operations, including those that are allegedly accidental, must be subject to an independent and impartial investigation.⁹² However, in practice investigations of such killings in Nigeria are rarely carried out or if they are, the findings are not made public.

5.1 EXTRAJUDICIAL AND SUMMARY EXECUTIONS

There are no circumstances in which international⁹³ law allows authorities to kill someone who is already in their custody or otherwise under their control in the absence of a trial which fully meets international standards of fairness.⁹⁴ To execute a person in such circumstances is a form of extrajudicial or summary execution, and constitutes a crime under international law for which those responsible must be brought to justice.⁹⁵ Several people interviewed by Amnesty International described how they saw people who were clearly no threat to life – unarmed, lying down or with their hands over their head and cooperating with security forces – shot at close range by the security forces.

A resident of Mai Sandari told Amnesty International that in May 2012 he and some nine other residents of the area saw the JTF arrive and bring a man out of their vehicle. The witness said: “The JTF didn’t know we were watching... Some [residents] were about 50 meters away. I was about 200m away. They asked the man to remove his clothes. They gave him a football shirt to wear and tied his hands behind his back with a belt. They asked him to walk [then] they fired from behind and killed him. They used an AK47. One soldier fired four bullets. It was very close range, [the gun was] touching his head... When they killed him they left the corpse there. We went and reported to the police station... the police told us to go and take photographs of the corpse and to bury him.”⁹⁶

LETHAL FORCE: NATIONAL LAWS FAIL TO REFLECT INTERNATIONAL LAW

The Constitution of the Federal Republic of Nigeria (1999) recognizes the right to life (section 33) and personal liberty (section 35), freedom from torture (section 34.1.a), and the presumption of innocence (section 36.5).

Nigeria's Constitution and the Nigeria Police Force Order 237 (Rules for guidance in use of firearms by the police) provide much broader grounds for the use of lethal force than is permissible under international law and standards, permitting police officers to shoot suspects and detainees who attempt to escape or avoid arrest "provided the offence is such that the accused may be punished with death or imprisonment for seven years or more."⁹⁷ Escaping custody or resisting arrest is punishable with seven years' imprisonment under Nigerian legislation. As such, the Constitution and Police Force Order 237 allow police officers to shoot with impunity anyone who flees.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions urged Nigeria to amend Force Order 237 in his report in January 2006: "These rules practically provide the police carte blanche to shoot and kill at will."⁹⁸

In some cases, following an attack by people suspected of being members of Boko Haram, particularly if it targeted security forces, security forces have been accused of carrying out retaliatory executions of (male) civilians living in the area and then claiming they were Boko Haram members.

On 6 June 2012, allegedly responding to a Boko Haram attack in an area some 5km away, a police officer from Danda police station, Maiduguri, began firing tear gas and live ammunition and ordered people to go inside their home and remain there. A neighbour who witnessed the incident told Amnesty International: "Alhaji Hussaini Sha'abu (65) entered his house when the police started shooting but could not see his children. His wife told him they were over the road at his brother's house. Alhaji Hussaini Sha'abu telephoned his brother to confirm the children were there but the call would not connect. Worried about his children, he decided he would go and find out. As he walked outside there were still a few police around. Without warning and without saying anything one of the policemen who was approximately 50m away aimed and shot him. They just left him there. Once the police left then we could get to him and take him to hospital... He was alive up to the following day."⁹⁹ The community elders made a complaint to the District Police Officer (DPO). The DPO met with them and said he is looking into the matter. They also sent a letter to the Inspector General of Police but received no response.¹⁰⁰

On 9 March 2012, Ali Muhammad Sadiq (31), Ahmed Yunusa (24), Auwalu Mohammed (30) and two other people were shot to death when the JTF opened fire at an NNPC filling station at Rijiyar Zaki, Kano. A nearby police station had been attacked by suspected Boko Haram members and the five men who were staff and customers at the filling station sheltered in the service bay in an underground service pit to avoid the bullets. According to eyewitnesses interviewed by Amnesty International, the JTF entered the service bay and shot directly at the men. Seven people were sheltering in the service bay, five were killed. Ali Muhammad Sadiq was shot five times, including once in the head.¹⁰¹

KAWAR MAILA, 27 DECEMBER 2011

On the early hours of 27 December 2011, nine people – Wakil Dala, Bukar Dla, Ali Dala, Adam Tijjani, Mamman Adamu Mustapha, Hassan Musa Bukar, Mamman M Mustapha, Alhaji Ali and Babangida Adamu – were allegedly shot by members of the JTF. According to residents of the community, JTF soldiers in several vehicles had arrived at Kawar Maila Ward, Maiduguri, and surrounded homes. Parents were asked to produce their male children. They were told their sons were being taken away for interrogation. Two days later a relative of one of the arrested boys heard on the radio that the JTF had killed 11 Yusufiyya [followers of Mohammed Yusuf] members in Maiduguri. One of the relatives went to the mortuaries to check. He found the bodies of all nine on the floor of the University of Maiduguri Teaching Hospital mortuary. In a press conference at the National Union of Journalists House in Maiduguri, a relative of one of the boys killed described how, when he and the other relatives arrived at the mortuary to claim the bodies, soldiers told them that they would not be allowed to take away the corpses unless they signed a statement that all the executed boys were members of Boko Haram.¹⁰² The relatives refused. The Village Head was arrested and detained for 24 hours for refusing to sign a similar statement that the nine were killed in a gun battle.¹⁰³

JTF spokesman Lieutenant Colonel Mohammed Hassan told journalists in Maiduguri that they had ‘incontrovertible evidence’ that the suspects were members of Boko Haram and claimed that they were killed during a gun battle with JTF operatives in the early hours of Saturday.¹⁰⁴

On the evening of 12 February 2012, between 7pm and 8pm, according to eyewitness accounts, the JTF mounted a road block at the entrance to Budum community, Maiduguri, set a house on fire and carried out a house to house search. Eight people were killed, including some trying to flee the area.¹⁰⁵ According to eyewitnesses interviewed by Amnesty International, Kana M Zakaria (16) was asked to come out of his house with his hands raised and was shot dead by a mobile police officer attached to the JTF unit. Bako Gwain Tijjani (42) was also shot dead while his hands were raised over his head. Six of the bodies were reportedly taken away by the JTF and later retrieved by the community from the hospital, while those of Baba Kalo (63) and Malam Yahaya (35) were left at the scene. According to residents interviewed by Amnesty International, the soldiers threatened the head of the community that he would be killed if he did not divulge who was a member of Boko Haram in the area. When he said that he did not know anyone, he was told to lie on his back while a soldier marched on his chest. This was repeated after he was ordered to lie on his front.¹⁰⁶

Residents of Budum claimed the JTF carried out the raid because a JTF vehicle collided with an electricity pole next to Budum market. According to residents it was after this incident that the JTF cordoned off the area and started the house to house searches. The JTF claimed in newspaper interviews that the operation was carried out after its vehicle came under attack from gunmen.¹⁰⁷

KALERI, 9 JULY 2011

On 9 July 2011 at around 8pm there was an explosion near a JTF vehicle in Kaleri Ward, Maiduguri. Most of the men in the community were in the mosque and the women were in their houses. According to residents, JTF soldiers blocked roads in the area preventing anyone from entering or exiting. The soldiers entered approximately 20 houses, searching them and bringing out residents who were made to lie on the ground. The JTF then set fire to homes, cars and motorcycles. Several men found inside the houses were shot dead. At least 18 men are believed to have been killed.¹⁰⁸

Adam Abdullahi Suleiman (42) was a staff member at the University of Maiduguri who lived in Kaleri. A neighbour of Adam Abdullahi Suleiman interviewed by Amnesty International said he saw the JTF shoot Adam Abdullahi Suleiman. Adam Abdullahi Suleiman had two wives and 10 children. Adam Abdullahi's wives, H.I. and Z.S. were in their house that evening. One of them described to Amnesty International what happened: "soldiers came into our house with two of our children and asked for our husband; we told them that he has gone to the mosque. The soldiers told us to come out and asked us to lie down into a culvert. We were then asked to give them matches and I saw them taking fuel from our electric generator set which they used to burn down our house... We saw our husband's corpse the following morning. His identity card was in his hand... We left for our respective villages after the funeral. The university gave us an assistance of N50,000 [\$317] and children's clothes. We are yet to receive his death benefits from the university; we were given his two month salary. We have gone back to our respective families and our children have been withdrawn from the private school and are now attending public schools. We did not lodge any complaint anywhere."¹⁰⁹

A.I. lived in Kaleri with her husband and four children. She also witnessed the execution of a neighbour on 9 July 2011: "When they [brought me outside] they made me lie there with one man. He was Dahiru Muhammad, he had three wives and 13 children. When I was brought out to lie down Dahiru Muhammad was already shot. He moved. [The soldier] said 'ah, he hasn't died' then he shot him again and he died."¹¹⁰

F.I. told Amnesty International she was at home with her six children aged between five and 15 when soldiers from the JTF blocked the entrance to the community and began searching houses. The soldiers also searched F.I.'s house: "He asked, 'where is your husband?' I told them he has travelled. He [the soldier] said I have hidden him inside the room and I should bring him out. One of the soldiers slapped me twice and I fell down, when I stood up we went into the room and he asked me to lift the mattress. He said 'Where is his gun?' I said 'he doesn't have a gun.' They said 'where is his bomb?' I answered 'he doesn't have a bomb.' The soldier that followed me into the room kicked me down and I fell... I had traditional beads on my wrapper [cloth used a skirt] he pulled at the beads and my wrapper came off. He lay on top of me. He put down his gun next to me, like he was going to rape me but he didn't take his trousers off. My four younger ones were under the bed in the same room. It lasted for about five minutes... At that time I couldn't talk, I couldn't control myself, I couldn't answer... They brought me to the roadside naked [without my wrapper]. A car was ablaze. The soldier asked me to go inside the fire. Another soldier said 'no, don't set fire to women and children.' They set fire to my house."

When F.I. was made to lie down outside she witnessed the summary execution of her neighbour and his children: "They were lying down next to me and were shot by my side. I was lying next to M.A., who was with her husband, Al-Ameen Abdullahi (70), and their three children, Tasi'u Al-Ameen (25); Sunusi Al-Ameen (23); and U.A.(13). Al-Ameen Abdullahi, Tasi'u Al-Ameen and Sunusi Al-Ameen were shot dead while lying face down. They spared U.A.. The woman M.A has been taken to the village, she is insane now."¹¹¹

Some of the women and children were made to lie on top of each other when they were brought out of their houses. A.S. had a nine-month-old baby, Z.S.; when the JTF brought them out of their house, they piled them up on top of each other. When they were allowed to stand up, they found that Z.S. was bleeding from the nose, mouth and anus. She died in hospital in December 2011 from what her family believe were injuries sustained during the raid.

Amnesty International interviewed five women from Kaleri Ward, one aged 17, who said they were raped by members of the JTF.¹¹² "We all went to have tests, there are no infections. But not everyone wants to voice out. The whole area was affected. They [JTF] were doing it all over." One 40-year-old woman who has five children

said her husband divorced her because of the rape. She said she was still receiving treatment for injuries she sustained in the attack almost a year previously.

Another of the women told Amnesty International “We believe that god is going to avenge for us, but government should come to our aid and provide shelter or rebuild where we were before... When the thing happened we were promised by government that they would aid us, provide shelter, we are still appealing that government should come to our aid.”

In a statement to the press, the JTF said “11 people were killed at Kaleri and all of them were members of the Boko Haram sect, while two soldiers were injured.” The JTF said some houses were burnt during the attack when an explosive kept by Boko Haram members in a house exploded.¹¹³

Members of a House of Representatives committee came from the National Assembly to talk to members of the community after the incident. Residents say they have not heard anything since their visit. No one has been held accountable for the killings. The women interviewed by Amnesty International had not received any assistance from the government in finding another place to live or rebuilding their homes.

5.2 BODIES DUMPED BY THE ROADSIDE

International human rights standards require that whenever force or firearms are used, relatives of the person injured or killed must be notified at the earliest possible moment.¹¹⁴ This is not the practice in Maiduguri. Amnesty International interviewed several families whose relatives were reportedly killed by security forces, and whose bodies were left by the side of the road.

For example, A.A., a 32-year-old trader, was arrested by members of the JTF on 15 May 2012 at around 6:30 pm as he was about to close his shop for the day. His father told Amnesty International that he was alerted of A.A.’s arrest shortly afterwards but could not do anything because of the curfew in Maiduguri. The following morning he started to search for his son: “I went to various police stations around us but didn’t see him and got no information about him. I was told that there is a police station at NEPA (the Power Holding Company of Nigeria, PHCN, formerly the National Electric Power Authority (NEPA) whose office is used as a base by the JTF), where people are being detained and I planned to go and check. I was waiting for the person that would take me to the NEPA police station when someone on a tricycle came and informed me that he saw three dead bodies dumped by the roadside and one of them resembles my son A.A.. I went to the area and saw his dead body lying by the roadside, naked with bullets all over his chest... I did not complain to anybody but I am looking for justice for my son’s killing. Without a trial it is great injustice to his family and me. He is the breadwinner of my family but he has been killed for doing nothing.”¹¹⁵ Given he was last seen in their custody and there is no evidence of his safe release, Amnesty International is concerned that state security forces were responsible for A.A.’s death, particularly given the pattern in Nigeria. Amnesty International wrote to the JTF Commander, Borno state, and the Chief of Defence Staff requesting additional information on the circumstances surrounding the death of several people including A.A.; no response was received.¹¹⁶

In August 2012, two bodies were dumped by the roadside on Sir Kassim Ibrahim Way [see cover photograph] in Maiduguri. A local resident told Amnesty International that when he came out of his shop he saw two dead bodies lying by the side of the road and a JTF vehicle pulling away. He told Amnesty International “when I went inside there were no bodies there, when I came out there was a JTF vehicle pulling away and two dead bodies lying by the side of the road.” It is unclear who killed the men.¹¹⁷

INTERNATIONAL STANDARDS ON USE OF FIREARMS

Lethal force and firearms should only be used when justified under international human rights law and standards and firearms should be regarded as potentially lethal in all circumstances and at all times.

International standards require that firearms may only be used in law enforcement as a last resort – when strictly necessary to protect the officials or others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting the officials’ authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives (Code of Conduct, article 3; Basic Principles article 9). The intentional lethal use of firearms is only permissible if strictly unavoidable in order to protect life (9. Basic Principles).

Before using firearms, police should always identify themselves as such and issue a clear warning of their use – with sufficient time for the warning to be observed, “unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.”¹¹⁸

Whenever the use of force and firearms is unavoidable, law enforcement officials must “exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved.”¹¹⁹ By misusing lethal force or using excessive force in a manner that violates the principles of necessity and proportionality, the police and other security forces can violate the prohibition against ‘arbitrary deprivation’ of life.¹²⁰ In no circumstances can the intentional killing of a person who does not present a threat be justified.

5.3 NO INVESTIGATION INTO DEATHS

Effective and impartial investigation is crucial in establishing the truth about human rights violations, including extrajudicial executions, and gathering evidence to hold perpetrators to account.

International standards require that any death in custody must be investigated thoroughly and impartially.¹²¹ Dependants or relatives of persons killed, or their legal representatives, are also entitled to an independent process, including judicial process, and publication of a report of the investigation.¹²² Indeed, whenever an individual dies in state custody, the responsibility of the state is to be presumed; the state must affirmatively provide evidence that it lacks responsibility to avoid that inference.¹²³

Any person affected by the use of force or firearms, including dependants or family of persons killed, or their legal representatives, is also entitled to an independent process, including judicial process, and publication of a report of the investigation.¹²⁴

Police officers in Nigeria are required to keep records of all unnatural deaths in custody. Records must include the name of the deceased, date and cause of death, and the outcome of the Coroner's inquest.¹²⁵ Coroner's Laws, which are in force in most Nigerian states, oblige the state authorities to investigate and determine the circumstances of all unnatural, sudden or violent deaths through an open, public inquiry, and to investigate every death in custody.¹²⁶ However, inquests into death in custody are rare in Nigeria.¹²⁷

No one interviewed by Amnesty International in Maiduguri about deaths of their relatives or friends said they had been informed by the security forces or other government agency that an investigation would be carried out, or were offered any apology. Few were given an explanation of the circumstances of the death(s).

M.C. (21) was a trader in Bula Birin, opposite Monday Market, and was among scores of people arrested by police on 14 May 2012.¹²⁸ According to eyewitnesses, all of them were put into one single armoured personnel carrier. M.C.'s uncle told Amnesty International: "I'm his uncle but his father is dead and M.C. is like a son to me. Often time M.C. brings dinner, at the time of dinner we hadn't seen him. We still hadn't seen him at morning. I thought maybe they've arrested him. I went to his place of work and they said yes, he's arrested. His partner said he heard they've all been released and are coming back. I saw people greeting those that had been released. I asked of my own son, they said yesterday 160 people were put in that police vehicle, it was overcrowded. They were taken to Crack [Special Anti Robbery Squad (SARS) police station in Maiduguri, commonly known as Crack]. When they got there, they stayed 15 minutes inside the car before police took them out and by the time they took them out of that vehicle, M.C. was dead. ...I went to the mortuary and asked the person 'did Crack police bring some people? I want to see them.' When they opened the fridge I saw four [bodies] within and one was M.C.. His chest was very black and so was the front of his thighs. The mortuary staff said they can't hand over the body until the police come. That was in the morning. They didn't release the body to me until 4:30pm. I didn't get a death certificate. The police were even challenging each other 'how did he die?' Eventually they wrote [in their book] 'there is no ventilation in car.' That's what the police wrote. I have not made a complaint; even if we went to the police there is nothing they would do."¹²⁹

The circumstances surrounding the deaths of M.C. and the many others who have allegedly died in custody and during police or JTF operations in Maiduguri have not been adequately investigated. Most have not been investigated at all.

5.4 BARRIERS TO COMPLAINTS

People interviewed by Amnesty International who claim their rights were violated by the security forces in Maiduguri said they found it very difficult to make complaints.

To facilitate the reporting of misconduct by security forces, law enforcement officials must make independent and impartial complaint mechanisms available and known to the public.¹³⁰ Any use of force or firearms that results in death or serious injury, or any complaint by a relative suggesting the possibility of an extrajudicial execution having occurred, must be immediately reported in detail to a competent administrative or judicial body with relevant jurisdiction.

Most of the people interviewed by Amnesty International felt too intimidated to make a complaint about the death of their relative. One lawyer who stopped taking criminal cases for fear of reprisals told Amnesty International: "I couldn't go to a police station now. They are surrounded by sand bags, people holding rifles. They've made the place so scary; I wouldn't even be comfortable to go."¹³¹

In some cases, relatives have been threatened when they have tried to discover more about the death of a loved one: A.C. (35) worked at a business centre in Maiduguri. According to A.C.'s brother, he was arrested by members of the JTF on 3 June 2012. When his brother tried to find him the next day he was told by people who had witnessed the arrest that A.C. had been badly beaten by the JTF. A.C.'s brother told Amnesty International, "Some people said they had piled sand bags on him. They said he couldn't talk and couldn't say anything. And that the JTF were beating him... One woman said it seems they have killed your brother." A.C.'s brother went to the JTF to find his brother and was told by a member of the JTF that his brother had been killed. He was asked to write a statement before the JTF would release A.C.'s body, "I wrote [something]. He said 'No! It's not clear! You have to write it again! If you mess up here I will shoot you to death!' This is a word that I can't forget – that I go to bed with and wake up again with. So I rewrote the statement. My dad started crying. He asked for the body." When A.C.'s father and brother were directed to A.C.'s body they were shocked by what they saw, "There were [what looked like] cable marks on his body, bruises everywhere. We found a rope on his neck. It was made from torn cloth and tied around his neck. But there were no signs of strangulation. The right side of his head was bruised. There was shock on his face. I can't forget that. There was no death certificate. No cause of death. We took him. I haven't made a complaint. I'm afraid... I don't want to follow up my brother's case. I leave everything to God. But I want people to hear it. I want people to know what is happening. People should know. Every day they are killing people."¹³²

In an interview with Amnesty International, the Commissioner of Police of Borno state told Amnesty International, "They can come here to complain. They should come here if they have a complaint. I assure them any person has access to me. We have told police guarding the gate. We have a pamphlet being printed and published with all the names of Divisional Police Officers (DPOs) and numbers including my own. We will distribute them to market places and market women."¹³³

In Kano, civil society groups also complained to Amnesty International about access to the police and military to make complaints: "People couldn't go and complain; there are barricades all around police stations. Up to now you can't go near police. When they see you close they think you are part of Boko Haram, we have to be very careful the way we engage."

6. ENFORCED DISAPPEARANCES

“I went to Giwa to see if he’s there. They didn’t allow me to enter. I don’t know if he’s alive or dead. He’s missing...He has two children. Even now his wife and children are together at home with me.”

Family member of M.I., aged 28, who was arrested in September 2011 and has not been seen since.¹³⁴

Amnesty International interviewed relatives and lawyers of eight people who were seen being arrested by security forces or in their detention and who are now missing. In the first days or weeks following arrest or remand, families were sometimes allowed to visit their relatives in detention. Later, the police or military told people that their relatives have been ‘transferred’. In other instances, following a person’s arrest, the police, SSS or military simply denied any knowledge of their whereabouts. Amnesty International is further concerned that some of those missing may have been extrajudicially executed.

Because there is no or limited access to military barracks, police stations and SSS detention facilities, families often do not know if their relative is still held. The effects on families of enforced disappearances are profound. Relatives are left not knowing whether their loved ones are dead or alive, a torment that in itself can constitute cruel, inhuman or degrading treatment.

ENFORCED DISAPPEARANCE

An enforced disappearance is the arrest, detention, abduction or other form of unauthorized deprivation of liberty of a person by a state, agents acting for the state, or persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the person’s fate or whereabouts, placing him or her outside the protection of the law. Enforced disappearances are serious violations of human rights and facilitate a range of other violations, including torture and extrajudicial executions. Enforced disappearances are explicitly prohibited under the International Convention for the Protection of All Persons from Enforced Disappearance, which entered into force on 23 December 2010 and which was acceded to by Nigeria on 27 July 2009. The Convention also imposes legal obligations on states to ensure all those responsible for enforced disappearances are brought to justice; to take a range of measures to prevent enforced disappearances, including by maintaining records of all persons deprived of liberty and guaranteeing that family members, lawyers and others have access to such information, including the ability to compel it through a prompt judicial procedure; and to guarantee and fulfil the rights of victims of enforced disappearance including the family members of those who have disappeared.¹³⁵

Goni Ali was arrested by members of the JTF at his home in Maiduguri with three others on 16 October 2011. They were taken to Giwa barracks, 21 Army Brigade. Two of the men arrested with him were released the following day and the third was released four days later. Goni Ali's family has not heard any information about him since. In July 2012 they told Amnesty International, "Whenever I go I ask about my brother I don't get any response from the JTF; sometimes they say they don't know him."¹³⁶

Following a court hearing on 4 January 2012 into the disappearance of Goni Ali, at which the JTF failed to appear, the judge commented in his ruling:

"All parties have been served... None of them have the courtesy to even write or sent a representative to state why they do not avail in court. Military or paramilitary like all other indigent individuals are subject to the Constitution of Nigeria which is sacrosanct. Nobody can claim monopoly of force or coercion except legitimately. In a situation where people who are the custodians of the law defy constituted authorities what would then happen to poor, unprivileged persons? It is barbaric, uncalled for and against all civilized standards. We cannot sanitise a society where those custodians defied all standards of civility with contempt. I really cannot know where we are heading to. It is high time we changed our barbaric behaviour."¹³⁷

A former detainee of the Special Anti Robbery Squad (SARS) police station in Abuja (commonly known as the Abattoir) told Amnesty International: "45 of us came [to Abuja] together, and returned together, except one. They picked him out of us and we didn't see him again. We are 45 minus one, we are 44."¹³⁸

On 25 January 2011, 64 people were presented in the Federal High Court in Maiduguri.¹³⁹ 65 persons were named on the charge sheet. Abatcha Mohammad's name was listed but he was not produced in court, neither the police nor the prison service could account for his whereabouts. The 65 people were arrested at various locations in Maiduguri in November 2010 by police. Initially detained at Crack police station, Maiduguri, they were then transferred to Police Headquarters Abuja, then to Police Headquarters Borno state. At some point between his arrest and the date he was due to be arraigned in court, Abatcha Mohammad went missing.¹⁴⁰

L.A., a tailor, was arrested by the JTF at his house in Bayan quarters, Maiduguri, on 8 June 2012. A family member told Amnesty International "I thought they took him to Giwa barracks. But he wasn't there. I went to Crack. They said we haven't seen him and suggested I go to another station. ... I've been looking for the past 10 days. I went to all the barracks. I went to Giwa three times. They kept telling me there is no one like him there... I have been going around with his ID. One policeman I know, I called on him, [to help me find out what happened]... he asked a friend who was within that team [that arrested L.A.], the policeman told me the man arrested that day, he and two others were taken very close to [the family's] area, to Lambu (irrigation) area. They were fired [shot and killed]...he told us to go to the mortuary. I went there...the mortuary attendant said they don't keep the bodies for more than 10 days and that they buried nine corpses the day before yesterday." Several people, including members of the security forces, subsequently told the family, off the record, that L.A. had been killed but without a body the family say they cannot be certain that he is dead.¹⁴¹

7. FORCED EVICTIONS AND HOUSE BURNING

“The recent great upheaval that followed burning, looting and destruction of several houses and shops by soldiers resulted in forced or voluntary social dislocation for fear of insecurity by several thousands of people in some wards of the state capital... The people (have) totally become desolate as refugees in their own town. In a nutshell our entire life fabric is at its lowest ebb.”

The Chairman of the Borno Elders Forum (BEF), Dr. Shettima Ali Monguno, said in a press briefing in June 2012.¹⁴²

Both the security forces and Boko Haram sometimes issue warnings to residents when fighting is expected to take place and the violence has forced thousands to flee their homes. In December 2011, the National Emergency Management Agency announced there were an estimated 90,000 displaced people in Damaturu, Yobe state, alone.¹⁴³ Many have been forced to stay with relatives in overcrowded conditions, or split up their families, or leave the city entirely. Businesses have been destroyed, and many children forced to move have had to discontinue their schooling.

When areas are attacked by suspected Boko Haram members, security forces often carry out house to house searches, making arrests and seizing property. Many residents interviewed by Amnesty International whose homes and neighbourhoods had been raided complained of being assaulted and harassed by the security forces during these operations. People complained of being threatened at gunpoint, physically assaulted and made to lie in the street, sometimes in a state of undress, for hours at a time. Many residents also complained that money was stolen from their houses. In June 2012, Amnesty International delegates witnessed a man being forced by security forces to frog-jump at a checkpoint in Maiduguri.

During some operations, particularly raids in areas where an attack on security forces has been alleged, residents say the JTF has summarily executed men and boys.

Amnesty International interviewed people from four communities in Maiduguri who said that following an operation in their area, the JTF has set fire to houses in their neighbourhood. Dozens of families have lost their homes and their possessions.

FORCED EVICTIONS

Amnesty International interviewed people from several communities in Maiduguri who claimed that the JTF had required them to leave their homes and communities with little or no notice, no compensation and no assistance in finding anywhere else to live. Families were left homeless and destitute and were forced to rely on relatives and friends for shelter and subsistence.

B.B was forced to leave his home in Shehuri North, Maiduguri, after JTF soldiers announced that people should leave their homes after fighting took place. He told Amnesty International “No reason was given [by the JTF]. I have two wives and 12 children. We went to my brother’s house but there’s not enough space there, we are just managing. My children aren’t attending school. One is in college, two in secondary and five are in primary school, the primary can’t attend school as the distance is too far [from where they now live].”

The JTF deny forcing people to leave their homes. Lieutenant Colonel Sagir Musa, the spokesman for the JTF in Borno state, was quoted in newspapers as saying: “The JTF did not request or force anybody or group to vacate his or their houses as alleged... We do not have the mandate to chase the people we were assigned to protect... I am sure some of the people left their houses because of the threats they received from Boko Haram.”¹⁴⁴

HOUSE BURNING

Amnesty international interviewed people from four communities who claimed their houses were burned by the JTF following raids or arrests in their areas. The practice appeared in many cases to be a punitive measure, and is a violation of Nigeria’s national laws and international human rights law and standards.

HOUSE BURNING – A VIOLATION OF HUMAN RIGHTS

The destruction of homes and eviction of residents without adequate legal safeguards is a forced eviction and therefore a violation of the right to adequate housing under Article 11.1 of the International Covenant on Economic, Social and Cultural Rights (to which Nigeria acceded in 1993) and the rights to privacy, family and home under Article 17 of the ICCPR.¹⁴⁵ The UN Committee on Economic, Social and Cultural Rights, which monitors the implementation of the International Covenant on Economic, Social and Cultural Rights by state parties, has highlighted that forced evictions and house demolitions as a punitive measure are inconsistent with the norms of the Covenant.¹⁴⁶

The UN Committee against Torture has expressed concern about house demolitions which may, in certain circumstances, amount to cruel, inhuman or degrading treatment or punishment, in violation of Article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The same is true in relation to Article 7 of the ICCPR and Article 5 of the African Charter.

Such destruction of homes is also a violation of Nigeria’s Constitution, which protects the dignity of the person and prohibits torture or inhuman or degrading treatment (s34); recognizes the presumption of innocence until proven guilty (s36.5); and the right to property (s44).¹⁴⁷

On 28 May 2012, in an interview with the BBC Hausa service, the then Minister of Defence was asked why homes of suspected Boko Haram members were routinely demolished by security agents in Kano and Maiduguri. He responded “By law, any place which is used for criminal activities, government has the right to shut down the place and destroy it in order to protect the lives of its people.”¹⁴⁸ He did not specify which law he was referring to. Amnesty International could not find any law in Nigeria permitting the destruction of homes of criminal suspects.

In a meeting with Amnesty International, the Defence Headquarters spokesperson contradicted the statement by the former Minister of Defence, saying “There are no instructions for military that when you make an arrest you destroy someone’s house.” However, he stated that it may be appropriate for the military to destroy a house if “it’s a factory that’s producing or manufacturing [bombs] and launching attacks from there.” He also suggested that “most houses get burnt because they are a bomb factory” and catch fire accidentally, for example during exchange of fire.¹⁴⁹

KAWAR MAILA, 25 APRIL 2012

On 25 April 2012, following a killing by a suspected member of Boko Haram in Kawar Maila, residents interviewed by Amnesty International allege that JTF soldiers set four houses on fire and threatened to burn more houses if anything happened again. On 1 May 2012 another person was killed by suspected members of Boko Haram, followed by an explosion nearby. The JTF returned with containers of petrol and set several houses on fire.¹⁵⁰

H.I.’s house was burned down that day. She was at her nearby shop selling fruit at the time but several of her children were at home. On 1 May the JTF returned and set fire to her shop. H.I. has eight children, aged between 22 and five and had lived in her home for 30 years. The family now rent two rooms in a different area. They are over an hour away from where they used to live and the children no longer attend school. H.I. does not know why her house was burnt down, “No one came and explained anything. You dare not even ask them why and no one took the trouble to explain why they are burning the houses.” The residents did not receive any compensation. “What else will I do? I have just left everything to god.”¹⁵¹

G.I. (46) is a civil servant with 10 children and separated from her husband. She had lived in Kawar Maila for 12 years. She told Amnesty International she was at work when the JTF came to her community. When she got home the soldiers were at the other side of the ward so she was able to remove her belongings and put them outside her house, but she was unable to get a vehicle to collect them. When the soldiers started to get close the residents were forced to flee. She returned the following day but found that some of her property was missing and the rest had been smashed to pieces. She lost everything. The tyres of her car had been shot and the windows broken. G.I. is still looking for an alternative place to stay. Initially she was staying with relatives, but for the past two weeks she and her children were sleeping at her workplace. G.I. wants to go home but the area remains closed with heavy security force presence. “The place is very scary now, nobody goes there.”¹⁵²

A human rights defender told Amnesty International: “I visited the area a day after the incident. Along the main road and off the main road I saw many houses burnt and some few still burning, some household members were migrating out en masse with their properties and children loaded on pickup vans and small tricycle open trucks... I [collected info on] 33 household heads whose houses were burnt down.”¹⁵³

LAWAN BUKAR, 22 MAY 2012

One person was reportedly burned to death and 13 shops and five houses burned down by members of the JTF after an explosion at Lawan Bukar junction, Maiduguri, on 22 May 2012 when a convoy of JTF vehicles was passing.

According to newspaper reports, after the explosion the soldiers at the back of the convoy opened fire, dismounted from their vehicles, smashed the windows of some cars that were packed by the roadsides and set shops and houses on the road on fire. Ibrahim Bukar Tela, a shop owner, locked himself in his shop to try to protect himself. According to eyewitnesses, the JTF poured petrol around the shop and set it on fire, killing Ibrahim Bukar Tela.

The eye witness testimony reported in newspapers contradicts the JTF's account of the incident. A press statement released by the spokesman of the JTF Lieutenant Colonel Sagir Musa, which confirmed the blast, said that an improvised explosive device (IED) exploded when a convoy of JTF vehicles was passing on the main road. He said the soldiers then made some sporadic shootings in the air and that it was the explosive device that ignited the houses.¹⁵⁴

BUDUM, 12 JUNE 2012

On 12 June 2012, residents of the Limani Tamsuwa area of Budum, Maiduguri, interviewed by Amnesty International said they heard gunshots in Shehu North, a nearby community. The next day the JTF came and using petrol and lighters set fire to three tricycles, the community's borehole and at least four shops.¹⁵⁵

Several JTF raids have taken place in Budum, resulting in deaths, injuries and arrests of residents, and the burning down of buildings. Community elders say there are only a handful of people still living in the community.¹⁵⁶

ZANNARI, 14 JULY 2012.

On the 14 July 2012 a girl in her late twenties was shot by a suspected member of Boko Haram in Zannari, Maiduguri. According to residents interviewed by Amnesty International, shortly afterwards members of the JTF came to the area, brought out resident from their houses, assaulted some of them, and set fire to several houses. Several people say they were beaten by the JTF, including six women and one boy of ten.

U.M. (65), a retired civil servant, told Amnesty International, "I was sitting inside my house around 10:00 or 11:00 am. I heard the sound of three gun shots and then I saw people running around saying that a girl has been killed. After some 40 minutes to an hour later two soldiers came into my house and shouted at me to come out and one of them dragged my son, who is a staff of the University of Maiduguri, and started beating him even though none of us resisted their action. Another soldier came in and went inside the house and called all the women to come out. The soldier started beating my daughter-in-law while another soldier was beating my son. As we came out of the house a soldier kicked me twice on my shoulder and chest and I fell down and he hit me on the head with his boot and I started bleeding he continued to beat me until when I collapsed. One of the soldiers asked me to stand; I said I cannot stand he then asked my wife and daughter to hold me. They were asking us to bring the person that shot the girl. The soldiers then started opening houses that were deserted and setting them on fire and about 14 houses were burnt down. S.I. (10) was also beaten. The soldiers called him Junior Boko Haram."¹⁵⁷

H.J., a shop owner in Zannari told Amnesty International, “the JTF members came to my shop around 11:30am while I was with some customers and directed me to close the shop and come out. As I came out I was asked whether I know the gun man that killed the girl and I said no. The soldiers then started beating me saying that I know him because my shop was facing the street. I was seriously beaten with sticks and I was hit with cutlass. I was asked to go into a culvert full of dirty water and I was beaten by all of them. I was held from 11:30am till 6:30 pm. I was bleeding. I had injury all over my back and I have injury in my eye. I was rescued by some elders in my community who pleaded on my behalf and I was allowed to go but the soldiers have warned me that I should never open my shop again and if I do they would arrest me and I would never be released. I am the one paying for my medication and I don’t know how I would take care of my family since I have been directed not to open my shop. I have two wives and four children.”¹⁵⁸

8. INCOMMUNICADO, ARBITRARY AND UNLAWFUL DETENTION

Since 2009, hundreds of people accused of having links to Boko Haram have been detained by the JTF, military, police and SSS.¹⁵⁹ Over 200 people are believed to be detained at Giwa Military barracks, 21 Armoured Brigade, in Maiduguri; over 100 in the Special Anti-Robbery Squad (SARS) police station (commonly known as the 'abattoir') in Abuja; and dozens at the SSS headquarters in Abuja. Others are detained in smaller detention facilities around the country. According to Amnesty International's research, many have been denied access to the outside world, including lawyers, families and courts, and are held outside the protection of the law.¹⁶⁰ Detainees suspected or accused of being members of Boko Haram are usually not informed of why they have been arrested; their families are not told where they are being held; and they are generally denied access to a lawyer. According to numerous accounts from different sources, including legal practitioners, human rights defenders, and scores of relatives of detained people, few - if any - of the people detained by the JTF in Maiduguri have been brought before a court or had the opportunity to challenge the lawfulness of their detention. Court orders for the production of detainees have been ignored by the military and the police. These serious violations of human rights have left many people languishing in police, military and SSS detention for months – some for more than a year - without being taken to court or formally charged with an offence. Lawyers and family members are generally prevented from visiting detainees.

Of those detainees accused of being members of Boko Haram who have been charged with a criminal offence and brought to court since 2009, very few have had their cases heard. Most are remanded in prison where they remain awaiting trial.

Large numbers of prisoners awaiting trial have been transferred without any information being given to family members or lawyers about where they were moved to; others have simply disappeared.¹⁶¹

Amnesty International has received consistent reports of treatment of detainees that may amount to torture and other cruel, inhuman and degrading treatment in police and military detention.

8.1 OUTSIDE THE PROTECTION OF THE LAW

The arrest and detention of people by the JTF, police and SSS in Maiduguri, Kano and Abuja is often conducted outside the provisions of both Nigerian law and international human rights law and standards.

Section 35 of Nigeria's Constitution stipulates that anyone detained on suspicion of committing a criminal offence must be arraigned before a court within a reasonable time. This is stipulated as 24 or 48 hours for non-capital offences depending on the proximity of the court; detainees have the right to the assistance of a legal practitioner or any other person of his own choice; and the right to be informed of the charge against them.

Although the Terrorism (Prevention) Act 2011 allows for 30 days detention (with a court order) and has some restrictions on access to a lawyer in the first hours after arrest, few have been charged with offences under this Act. Further, even if the Act was being applied, the provisions do not permit for the long periods of incommunicado detention currently used by the police and JTF.¹⁶²

In Nigeria the military do not normally have any general legal authority to arrest or detain anyone who is not a member of the armed forces. However, under an order issued by the President pursuant to the Emergency Powers Act on 27 April 2012, the military were exceptionally authorized to detain anyone in the areas covered by the state of emergency who "is or has been involved in the preparation or instigation of acts prejudicial to public safety" and over whom for this reason the detaining authority is satisfied that "it is necessary to exercise control."¹⁶³ However, the Emergency Powers Regulations, which set out the additional powers granted under the state of emergency and the rights and laws, if any, that are to be derogated from, do not otherwise expressly purport to detract from the usual rights and safeguards in relation to people deprived of their liberty, provided for by international human rights law or the Nigerian Constitution. This would include, for example, specific rights arising under Section 35 of the Constitution such as: the right of anyone detained on suspicion of having committed or planning to commit a criminal offence to be brought before court within a reasonable time; and the right of all persons arrested or detained on any grounds to have access to a lawyer of their choice (and to remain silent until such access is given) and to be informed in writing within twenty-four hours of the facts and grounds for their arrest or detention.

Many of the arrests and detentions of people by the military do not in fact fall within the scope of the Nigerian legislation promulgated in connection with the most recent state of emergency. The state of emergency came into effect in January 2012, but many of the people in military detention were arrested before its declaration (and even more of the detentions began before the entry into force of the Emergency Powers (Detention of Persons) Regulations at the end of April 2012). Similarly, the six months time limit for the state of emergency (and therefore the authority for the special detention power under the Regulations) under article 305(6) of the Constitution elapsed at the end of June 2012. The President officially recognised that the state of emergency had ended, and that the application of the Emergency Powers Regulations had ceased, as of 18 July 2012, yet at the time of writing hundreds of people remain detained.

In addition to apparently violating provisions of Nigerian law, the arrests and detentions as described in this Chapter violate a range of international human rights obligations under the African Charter of Human and Peoples' Rights and the International Covenant on Civil and Political Rights.¹⁶⁴

HUMAN RIGHTS DURING STATES OF EMERGENCY

Under treaties such as the ICCPR, states may derogate from (limit) some human rights during officially proclaimed states of emergency that ‘threaten the life of the nation.’ However, these derogations must adhere to the principle of proportionality, i.e. may be taken only “to the extent strictly required by the exigencies of the situation” as relates among other things to the duration, geographical coverage and material scope of the state of emergency and justification of each specific measure of derogation resorted to because of the emergency. Derogating measures must not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. No derogation is permitted from certain of states’ obligations, including to ensure the right to life and the prohibition of arbitrary deprivation of life, and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. No state of emergency can ever justify the taking of hostages, the imposition of collective punishments, arbitrary deprivations of liberty (including abductions or unacknowledged detention), or deviations from fundamental principles of fair trial, including the presumption of innocence. No derogation may validly authorise the deportation or forcible transfer of population without grounds permitted under international law, in the form of forced displacement by expulsion or other coercive means from the area in which the persons concerned are lawfully present. Even in states of emergency, victims of violations of human rights must have access to an effective remedy. The right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention (i.e. habeas corpus), must not be diminished by a state party’s decision to derogate from the Covenant. Derogations must also not be inconsistent with other human rights obligations.¹⁶⁵

The African Charter on Human and Peoples’ Rights does not allow for derogation from any of its provisions, including fair trial guarantees, under any circumstances. The African Commission on Human and Peoples’ Rights has held that in an emergency situation, the government has a continuing responsibility to secure the safety and liberty of its citizens.¹⁶⁶

8.2 DENIED RIGHTS UNDER ARREST

Several people who had been arrested and later released by the JTF and police in Maiduguri and Kano told Amnesty International that they were not informed at the time of their arrest of the reason for their arrest and were not informed of any charges against them. Some spent months in detention without ever being informed of the charges against them.

M.M. (22) was arrested by the JTF at his home on 17 January 2012 with his nine brothers, one of whom he says was just 16 and another mentally ill. After spending one night at a JTF unit based at a hospital, they were all transferred to Giwa barracks. Five days later, M.M. was interviewed by two officers. He described his interrogation to Amnesty International: “they call the place court. When you go in there, one is introduced as their lawyer. They asked me my name, how I earn a living, where I live, the Local Government Area (LGA). They asked me to say how many friends I have and then asked me to name 10 of them. Then they asked me to identify members of Boko Haram from the 10 names I had given.” He was never told what he was suspected of. M.M. and six brothers were eventually released in June 2012; two of his brothers remain detained.

In other cases, detainees are told there is an accusation against them but they are not allowed to see the details.

M.A., a groundnut oil seller in Monday Market, Maiduguri, was arrested at his shop on 2 August 2011 by the SSS before being handed over to the JTF and detained at Giwa barracks.

He has been there ever since, without charge and without being arraigned in court. His brother and lawyer were told by the SSS a few weeks after his arrest that M.A. was suspected of 'sponsorship of the Boko Haram sect' and that the basis for his detention was a petition against him. However, neither M.A. nor his lawyer were permitted to see the petition or given any further information about the allegations.

8.3 DENIED ACCESS TO LAWYERS, FAMILY MEMBERS AND MEDICAL CARE

LAWYERS

Anyone arrested or detained on suspicion of involvement in a criminal offence should have immediate, confidential access to a lawyer, and in any event not later than 48 hours after arrest.¹⁶⁷

However, none of the people interviewed by Amnesty International whose relatives had been arrested and detained by the JTF or police, or who had themselves been arrested and detained, were offered access to a lawyer when they were arrested or while they were detained. Even when people managed to locate their relative in detention and raise the money to pay for a lawyer, the lawyer was often denied access to their client.¹⁶⁸

One Maiduguri-based lawyer told Amnesty International, "you used to be able to visit, but now they stopped anybody coming, they say don't visit, don't bring food. There's no access for lawyers anymore. You can't even enquire about people."¹⁶⁹

FAMILY MEMBERS

Anyone who is arrested, detained or imprisoned has the right to inform, or have the authorities notify, their family or friends. The information must include the fact of their arrest or detention and the place where they are being kept in custody. If the person is transferred to another place of custody, their family or friends must again be informed.¹⁷⁰ Although international standards allow for a delay in notification of family members "for a reasonable period where exceptional needs of the investigation so require" this is never to be more than a few days.¹⁷¹ Detainees have the right throughout their period of detention to communicate with and to receive visits from family members.¹⁷²

Amnesty International interviewed dozens of relatives who had witnessed the arrest of their relative by the police, JTF and SSS but who were not given any information about where they were being taken or why.¹⁷³ Detainees interviewed by Amnesty International after their release described being denied any contact with the outside world, making it impossible to inform people that they have been arrested. Many of the family members interviewed by Amnesty International spent days and sometimes weeks searching for their relative.¹⁷⁴

Some of the relatives interviewed by Amnesty International who had located their detained family members were allowed to see them and bring them food and medicine; in other cases, they were refused and could only leave money with the police or soldiers on duty in the hope it will reach their relatives. Sometimes they were not even permitted to do that. Many relatives told Amnesty International that after finding their relative and being permitted to see or speak with them briefly, they were subsequently refused access.¹⁷⁵

L.B. (67) told Amnesty International his son was arrested in April 2012: "When they seized my son, we didn't know where they took him. We went in search of him. We went from station to station and to the barracks, until some people who had been arrested and released said they saw him at Crack [SARS police station]. When we found out where he was kept, we started taking food there. They didn't let me see him until two months after. I was only allowed to see him once. After that I kept taking food. Recently they let me see him for the second time; that was four days ago... we couldn't talk for long, I greeted him and asked if he is well. Then the policeman said 'this your son is Boko Haram' I said 'he's not Boko Haram.' The policemen said 'Don't say your son isn't Boko Haram, are you one too?' They threatened to arrest me and chased me out of the station."¹⁷⁶

In several cases reported to Amnesty International, detainees arrested by the JTF, police or SSS have been repeatedly transferred between different places of detention. The security forces usually do not inform relatives where the detainees have been transferred to. Even if family members were initially aware of their relative's arrest, once he or she is transferred they are usually not informed of the location.¹⁷⁷

T.M. was arrested in July 2011 in Maiduguri. He was transferred to Lagos and then to SARS in Abuja. It took his family nine months to find him. They were finally able to locate him because a fellow detainee at SARS was released and called T.M.'s wife to alert her to her husband's whereabouts. When she arrived at the police station in Abuja where T.M. was detained, she was refused permission to see him.¹⁷⁸

Amnesty International is aware of at least two cases of detainees who said that they were arrested with their wives, and transferred to a police station on the other side of the country before being separated from their wives. S.G. was arrested in Sokoto state in north west Nigeria on 19 December 2011 with his wife Z.M.. They were both transferred by plane to Akwa Ibom state in the south east of Nigeria. S.G. was then transferred to SARS in Abuja but his wife was not. The last time he saw her she was in police custody in Akwa Ibom and, according to S.G., she gave birth at the police station. As of May 2012 her whereabouts were still unknown.¹⁷⁹

The Inspector General of Police confirmed to Amnesty International that "In most cases, we don't allow them [detainees] to be contacted (by family members)."¹⁸⁰

MEDICAL CARE

Several people interviewed by Amnesty International who had been detained by the police or JTF in Maiduguri said that they were denied access to medical care as well as vital medication while they were in detention.¹⁸¹

Prisoners are entitled to the provision of adequate medical care while they are in detention. A failure to ensure such care, including transferring the individual to a hospital when necessary, violates the right to health and the right to humane treatment of prisoners, and can in some circumstances amount to cruel, inhuman or degrading treatment.¹⁸²

In January 2012, M.M. repeatedly complained to soldiers at Giwa barracks that he was diabetic but they refused to take him to hospital until he became very ill. When he was eventually taken to the clinic on site at Giwa, there were no drugs to treat him. He was



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Top: Bodies on the road in Maiduguri, July 2009. On 26 July 2009 members of Boko Haram attacked police and government targets in several states, police and military responses resulted in serious human rights violations. By the end of that week, more than 800 people had been killed, including police officers, members of Boko Haram who had been active

in the fighting, other apparently unarmed people who may have been unlawfully killed by the police, and bystanders caught in the crossfire.

Below: Nigerian troops patrol in Maiduguri, Nigeria, 1 August 2009.

On 26 April 2012, Boko Haram bombed the offices of the newspaper *Thisday* in Abuja and Kaduna. At least seven people died.

© Private



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Stills from a YouTube video.

Top: Thisday offices in Abuja before the attack on 26 April 2012.

Above: Thisday offices during the attack.

Right: Thisday offices after the attack.





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Above: Soldiers stand guard at a road junction prior to President Goodluck Jonathan's visit to the site of a suicide bombing at the police headquarters in Kano, Nigeria, 22 January 2012.

Right: Security officials search a vehicle along the Gombe-Maiduguri expressway in Borno state, 28 June 2011.



© REUTERS/Afolabi Sotunde



Top: Remains of a school building in Maiduguri, March 2012. Dozens of school buildings have been attacked and burned in Maiduguri, leaving thousands of children unable to continue their education. Boko Haram has claimed responsibility for many of the attacks.

Left: Still from a YouTube video, April 2012. Boko Haram – and people claiming to be Boko Haram – often issue warnings and threats to individuals, groups and institutions that they intend to target. Some are made publicly via video which is then posted on YouTube or in a statement read over the telephone or sent by email to a journalist.



Above and above right: Shops and houses allegedly burnt by the Joint Task Force (JTF) at Lawan Bukar junction, Maiduguri, on 22 May 2012. After Ibrahim Bukar Tela locked himself in his shop (above) for protection, JTF members reportedly set it on fire, killing him.

Right: At least 14 houses were burned down in Zannari, Maiduguri, on 14 July 2012, reportedly by members of the JTF. The area was attacked after a girl was shot by a suspected member of Boko Haram.



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Top: Children relocating for safety after an attack on the community of Kwar Maila on 25 April 2012. After an attack by a suspected member of Boko Haram, JTF soldiers allegedly set four houses on fire and returned and burned more on 1 May.

Right: Residents of Kwar Maila pile their belongings on the street ready to relocate after the JTF allegedly burnt down several homes in the area. None of the residents received any compensation.



© Private

denied permission to call his family to ask them to bring him the drugs he had at home and was forced to endure 18 days without his medication. M.M. was taken twice during the 18 days to the barrack hospital but on each occasion the necessary drugs were not available.¹⁸³

8.4 DUE PROCESS FLOUTED

Amnesty International's research found that the detention of many of those suspected of crimes related to Boko Haram has not been subject to due process according to the law.

The vast majority of people arrested by the JTF do not appear to have had the opportunity to be heard by a judicial authority, and those that have tried to challenge the legality of their detention by bringing cases before the courts have had court orders ignored.¹⁸⁴

Ibrahim Umar was arrested on 13 January 2012 at the Borno state Government Lodge, Asokoro, Abuja, along with Kabiru Sokoto who was alleged to be a member of Boko Haram. Ibrahim Umar spent seven days in police detention before being arraigned before the Chief Magistrate Court, Wuse Zone 2, Abuja on 20 January, charged with belonging to an unlawful society and culpable homicide not punishable with death. The case was adjourned to 28 March and he was remanded in Kuje prison. On 26 January, on the application of the prosecution, all charges against him were dropped. However, when he was released on 26 January he was immediately rearrested by the police and taken to the SARS, Abuja. On 2 August, a court in Kuje, Abuja, declared the continued detention of Ibrahim Umar "unconstitutional" and "an infringement of his fundamental rights" and granted a Court Order for his immediate release. The Court Order was served on the police on 7 August 2012 but he is still in detention.¹⁸⁵

One lawyer told Amnesty International: "I only got one person released from the barracks [JTF detention]. They don't bring people to court. In all the cases they just say they are Boko Haram members. They don't specify the crime. [As for people detained by] the police – you can go to court and the police release them. The police are cooperating more than the military and the SSS. The police know the position of the court; if you get court orders the police release them. But even then you have to initiate a Form 48 (contempt proceedings)."¹⁸⁶

Most of the family members and lawyers interviewed by Amnesty International who tried to seek access to their client or relative or enquire when they will be arraigned in court, were told – if the detaining authorities even confirmed that the person was in their detention – that 'we are still investigating.' In an interview with Amnesty International, the Defence Headquarters spokesperson said that "investigations can take one month or two months, or more, depending on the information [that they get]."¹⁸⁷

A representative of the Office of the National Security Adviser (ONSA) told Amnesty International: "They [JTF] don't detain them when it is not necessary. For those people against whom there is evidence that they are involved, they are detained for interrogation and that takes a long time."¹⁸⁸

Sa'Adatu Umar, a nursing mother, was arrested on 20 March 2011 in Bauchi with her three children aged five, three and 10 months. She was accused of aiding her husband's evade arrest. After two days they were transferred to Abuja where they were detained at Area 10

police station for almost three months; Sa'Adatu Umar was never charged or arraigned before a court of law. She was eventually released on 15 June 2011 after legal NGO Legal Defence and Assistance Project (LEDAP) filed a petition at the ECOWAS Community Court of Justice in Abuja, seeking an order declaring her detention illegal and ordering her release. She said that she and her three children became ill while in police custody as a result of inadequate food, water, medical care and clothing.¹⁸⁹

8.5 GIWA MILITARY BARRACKS, MAIDUGURI

Giwa barracks, 21 Armoured Brigade, is a military institution used as a detention facility for people suspected of crimes related to Boko Haram. The JTF routinely detains people it arrests at Giwa barracks.

Because most detainees are not taken to court, and the JTF does not disclose the number of people it detains, it is impossible to know exactly how many have been arrested and are detained at Giwa barracks. However, eye-witness accounts of people who have been detained at Giwa barracks and people (lawyers, human rights defenders and relatives) who have been able to gain access to the barracks put the number at between 200 and 500.

Amnesty International was not granted access to visit Giwa barracks so was not able to examine the conditions of detention first hand. However, the organization received consistent descriptions from seven people who had been detained and released from the barracks, and from lawyers, human rights defenders and relatives who had visited.

According to information received by Amnesty International, as described below, the conditions of detention may amount to inhumane and degrading treatment prohibited by Nigerian and International law.

SUBSTANDARD CONDITIONS OF DETENTION

According to information received by Amnesty International, detainees at Giwa barracks are held in severely overcrowded conditions. Detainees described an overground cell containing approximately 160 to 200 detainees. Amnesty International received consistent reports from former detainees and others who had been inside Giwa, that there is an additional underground detention facility, which may be used for punishment. Former detainees reported that in June 2012 a second overground cell was constructed, with similar capacity to the existing over ground cell.¹⁹⁰

One former detainee who said he had been chained in the underground cell for one week told Amnesty International: "they have a dungeon, an underground place where they also take people...In the dungeon they have short chains, they tie you to one side, you cant stretch fully, lying on the ground, knees bent, you are handcuffed to a hook in the ground, facing another person who is also handcuffed to the hook. You lie on your side, two people per hook. They leave you for five days. You can't stretch out. It's a big place, they could put as many as they want in there."¹⁹¹

One lawyer described seeing up to 50 detainees kept outside during the day, where temperatures can reach more than 45 °C.¹⁹²

According to former detainees and those relatives who have been able to visit the barracks, detainees are handcuffed in pairs for 24 hours a day. All activities - sleeping, eating, praying, bodily functions - are done while handcuffed to another person.¹⁹³

According to descriptions given to Amnesty International, the cells at Giwa do not have adequate ventilation. The overground cell containing approximately 160 people had only four small windows. The underground cell has no windows and no natural or artificial light, meaning that prisoners are kept in total darkness.¹⁹⁴

At the time of writing there was only one toilet at Giwa barracks for all detainees to use. This was located outside the overground cell so could only be used when detainees were allowed out of their cell. When in the cells, detainees used jerry cans and polythene bags for toilet functions. Each detainee has a small plastic bottle which they can fill from a borehole when they are released from the cell to use for drinking and washing.¹⁹⁵

Detainees were allowed out of their cell three times a day: for one hour at approximately 7am; one hour at noon when they are brought out to eat; and again in the early evening when they are also given food. Those whose relatives have been able to bring money may buy additional food.¹⁹⁶

Inmates are fed from large trays, which each serve up to 20 people. The tray is passed around and detainees take turns to eat. Sometimes detainees might eat just one or two handfuls before the food is finished. Every detainee interviewed by Amnesty International complained there was not enough food. Amnesty International delegates noted that detainees they interviewed who said they had been released only a few days earlier looked emaciated.¹⁹⁷ No bedding is provided by the detaining authorities. Detainees sleep on mats on the floor, on flattened cardboard cartons or on their clothes.¹⁹⁸

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

If the descriptions received by Amnesty International are accurate, the treatment of some prisoners in Giwa during investigations or for punishment would amount to cruel, inhuman or degrading treatment or punishment, and in some cases would appear to constitute torture, a crime under international law.

According to released detainees there are four pillars on the veranda of the ground floor cell which are used for interrogation or punishment. Detainees are fastened to the pillar by being handcuffed either in front or behind their backs, and left for between one and seven days; they are only briefly released during meal time. One former inmate told Amnesty International: "It's an interrogation tactic. When they tie them to the pillar all they ask is 'Who do you know in Boko Haram?'"¹⁹⁹ Witnesses told Amnesty International that in at least one instance a man was kept tied to the pillar for 24 hours without food or water.²⁰⁰

N.D., a 23-year-old driver who was detained at Giwa barracks for five months from January 2012 said, "I was tied up on the pillar on our arrival for one week. I was released only twice in a day. I was forced to urinate and defecate there except if it is the normal time for releasing us to go out. I fell very ill and when I was finally taken away from the pillar I was too ill and couldn't even walk I was only crawling." N.D. needed medical treatment after being released from the pillar.²⁰¹

Brothers U.M. and A.M. were arrested on 17 January 2012. According to eyewitnesses interviewed by Amnesty International, while detained at Giwa barracks they were handcuffed to a pillar for four and six days respectively. The handcuffs were not locked in one position, which meant that they tightened each time the detainees moved their hands. On one occasion, according to a person detained with A.M., he was taken to an office and beaten with electric cable before being reattached to the pillar.²⁰²

Amnesty International's request to the Commander of the JTF in Borno state for further information on the underground detention facility and the use of pillars at Giwa barracks produced no response.²⁰³

8.6 'THE ABATTOIR'

Over 100 people arrested in connection with crimes related to Boko Haram have been detained at the Special Anti-Robbery Squad (SARS) detention centre in Abuja, known as the 'abattoir'. The SARS detention centre in the Federal Capital Territory in Abuja is located in a disused abattoir on top of a hill outside the city. Detainees are held in a vast warehouse previously used for slaughtering cattle, with chains still hanging from the ceiling.²⁰⁴

Detainees are given little food or water and are dependent on relatives bringing food or money. People who have been detained at the 'abattoir' told Amnesty International that several detainees, some of whom have been in police detention for over a year, have fallen sick there. However, sick inmates were not taken to hospital by the police or provided with any medical care within the police station.²⁰⁵

Detainees told Amnesty International that several inmates were beaten by police officers while detained at the 'abattoir'.²⁰⁶

M.K. was arrested when soldiers came to his house looking for his brother. He told Amnesty International, "We were taken to the police station in Maiduguri. After 13 days, we were transferred to Force Headquarters in Abuja. Then from there we were taken to SARS, Abuja. It's known as the abattoir. We spent 27 days there. Nobody knew where we were. We observed so many things there... There were shots in the night. I was hearing the shot of guns but I didn't know what they are doing. When they [police] were collecting statements, some of us cannot speak English, and some of the officers cannot speak our language, so those that have difficulty, they have been beaten... Our lives were – we were not alive. We had no food, no water, and no bath. One cell held about 45 of us. After 27 days we wanted to die from hunger." M.K. was eventually released after over a month in custody.²⁰⁷

CHILDREN IN 'THE ABATTOIR'

Amnesty International has received reports that at least three children under the age of 18 have been detained at the 'abattoir'.

Article 37(b) of the Convention on the Rights of the Child, which Nigeria ratified in 1991, stipulates that a child shall only be arrested or detained as a last resort and only for the shortest possible duration.²⁰⁸ The UN Committee on the Rights of Child has emphasised the particular importance of this rule as regards pre-trial detention, stating that situations where "children languish in pretrial detention for months or even years" constitute "a grave violation" of article 27(b).²⁰⁹

U.O., who is believed by human rights defenders working on his case to have been 14 when he was arrested in January 2011, has spent over 16 months in police detention and has never been presented before a court. The detaining police officers claimed he was over the age of 18. He remains in detention.²¹⁰

Brothers M.M. (17) and A.M. (16), along with a third brother and a friend, were arrested on 6 November 2011. They were transferred between several stations, before being taken to SARS in Abuja, where they remain.²¹¹

In response to the arrest of wives and family members of Boko Haram members, Boko Haram has also issued warnings threatening to target women, children and schools: "We may consider abducting family members of government and security agents, if this continues. We may also consider attacking schools where their children attend if mosques and Qur'anic schools attended by Muslim children in the southern part of the country are bombed again."²¹²

8.7 MONITORING OF DETENTION FACILITIES

The National Human Rights Commission (NHRC) Amendment Act, which had been pending approval for six years, was finally signed into law by the President in March 2011. The Act gives the National Human Rights Commission the power to investigate human rights violations and visit police stations and other places of detention. However, under the Act, the members of the Governing Council of the NHRC are required to take an oath of office prior to commencing their duties. At the time of writing, the inauguration ceremony - where the oath of office would usually be taken - had not taken place.

Nigeria ratified the optional protocol to the Convention against Torture on 27 July 2009.²¹³ The protocol aims at the better prevention of abuse of detainees and other prisoners through a system of confidential visits to all places of detention by independent international (UN Subcommittee on Prevention) and national (national preventive mechanism) experts. On 29 2009, a National Committee on Torture was inaugurated, designated as Nigeria's national preventive mechanisms (NPM) under the Optional Protocol, "to investigate allegations of torture, extrajudicial executions and other unlawful killings."²¹⁴ The National Committee on Torture is mandated to visit all places of detention in Nigeria and to promptly and impartially examine any allegation of torture. The Committee is yet to be given adequate budget for carrying out their mandate.

9. FAILING TO PROTECT AND PREVENT

“States ... have an obligation to ensure the human rights of their nationals and others by taking positive measures to protect them against the threat of terrorist acts and by bringing the perpetrators to justice in fair and public trials before independent and impartial civilian courts.”

Ben Emmerson, UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, addressing the Human Rights Council, 5 July 2012.²¹⁵

Nigeria is obliged under national and international law to protect the right to life and security of the person of everyone on its territory.²¹⁶ This does not only mean ensuring that those acting on behalf of the government do not commit violations of human rights. It also includes a positive obligation to exercise due diligence to protect the population from threats to their lives and personal safety posed by non-state actors such as Boko Haram.²¹⁷

Research by Amnesty International indicates that in some cases Nigeria may not be responding to attacks by Boko Haram with the due diligence required. As noted in previous chapters, suspected members of Boko Haram have been rounded up following attacks, but without proper investigations and follow through, few have been tried or convicted. On the contrary, Amnesty International research suggests in some cases security forces may have perpetrated grave human rights violations when conducting operations in response to Boko Haram. Such action is not only illegal, it is very likely to fuel the cycle of attack and counter-attack, exposing thousands of people to the risk of serious human rights violations and abuses.

As will be described below, the Nigerian government appears to be failing to adequately investigate and punish perpetrators of violent attacks and therefore failing its obligations of due diligence when it comes to protecting the right to life and security of person of the population.

DUE DILIGENCE

Nigeria's international human rights obligations include a positive obligation to exercise due diligence to protect the population from threats to their lives and personal safety posed by non-state actors such as Boko Haram.²¹⁸ To exercise due diligence in protecting the right to life and security of the public, Nigeria must ensure an adequate legal framework is in place for the prevention, detection, investigation, and criminal punishment of those who plan and perpetrate such attacks. Law enforcement officials must be provided with training, equipment, infrastructure and working conditions that are adequate to enable them carry out their duties effectively. Authorities must plan and carry out operations with reasonable care, in order to prevent violent attacks by Boko Haram or any other group about which the authorities know or should have known in advance. If attacks nevertheless take place, the authorities must conduct prompt, independent and impartial investigations and ensure those responsible are brought to justice in fair proceedings that meet international human rights standards and without the imposition of the death penalty. Victims, including the immediate family of anyone killed by an attack, must be informed about and able to participate in investigations and trial proceedings, and they and anyone else who provides information or evidence to the authorities must be provided with measures of protection against violent retaliation by Boko Haram or others.²¹⁹ Nigeria should also ensure that victims of an attack (including immediate family members of anyone killed as a result) are provided with prompt and adequate remedy and reparation.²²⁰

9.1 INADEQUATE INVESTIGATION

“The state’s duty to investigate and prosecute terrorist suspects is directly linked to its obligation to end impunity and prevent future acts of terrorism. Individuals suspected, on objectively reasonable grounds, of having engaged in the incitement, preparation, instigation or commission of terrorist acts should be duly investigated and, if appropriate, prosecuted, convicted and punished according to the ordinary rules of criminal law and procedure.”

UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.²²¹

Amnesty International spoke to families of victims who say little or no investigation appears to have been carried out by the police or JTF into the death of their relatives.²²²

Human rights defenders in Maiduguri told Amnesty International that people are killed by ‘unknown’ attackers on an almost weekly basis in Maiduguri.²²³ In some cases, announcements are made by the security forces that someone was arrested in connection with the attack, or that the attackers were pursued and killed. However, because few if any of the cases come to court, it is impossible for family members or the public to know if the actual perpetrators have been caught.

Several relatives of people killed by unknown gunmen, possibly Boko Haram, say the police never visited the scene of the crime, did not take any statements and they were not contacted again about any investigation or any progress with the case.²²⁴ The brother of one man killed by unknown gunmen in Maiduguri told Amnesty International, “There was no investigation...I was the first person to see that corpse [after he was killed] I just covered him with some wrappers, [contacted the police] who come and allowed us to bury. That was all.”²²⁵

9.2 'PASSING THE BUCK' ON PROSECUTION

Amnesty International's research found that few of the hundreds of people arrested and detained by the security forces in northern Nigeria have been formally charged, and most languish in police, military or SSS detention for months while 'investigations are ongoing.' If detainees are charged and arraigned in court, the processes are slow, with the result that most detainees are kept in pre-trial detention for many months and sometimes years. Only a small number have been convicted.²²⁶

According to the Ministry of Justice, the JTF must hand over a case to the state Director of Public Prosecution (DPP) for prosecution under the Criminal Procedure Code [a state law], and to the Federal DPP for prosecution of a crime under the terrorism act [a federal law]. However, in practice this is not done.²²⁷

When questioned about why detainees at Giwa barracks were not prosecuted, the Defence Headquarters spokesperson told Amnesty International: "It is not the responsibility of the military to take them to court. Our responsibility is to keep them. Since Yusuf [who died while in police custody after being transferred from the military to the police] we take care of custody. But it's the responsibility of the police to prosecute them."²²⁸

However, the Borno state Commissioner of Police told Amnesty International that the cases in the barracks are the responsibility of the JTF and were not sent to the police for prosecution. When questioned about the prolonged detention without charge of people in police stations in Borno state, he told Amnesty International that although the Constitution says detainees may be held for 48 hours maximum, this is difficult in practice. He said that when a suspect is charged with a very serious offence, it is the DPP who will press charges and arraign the person in court, and the police must therefore wait for the DPP. "When he doesn't bring the case on time there's not much we can do."²²⁹

When asked about the delay in charging and arraigning suspects in court, the Inspector General of Police (IGP) told Amnesty International: "They are making a new anti-terrorism law, that's where the problem is." He commented that the current Terrorism (Prevention) Act 2011 and other criminal and penal codes are not sufficient to charge people suspected of acts of terrorism and that until the new bill is passed the police are not able [or willing] to formally charge people. "If someone stays a year [in detention] it is because we are not charging him to court for murder, but for an act of terrorism, the current act is not sufficient... we can only prosecute someone when there is a law for it."²³⁰

Such arguments for not proceeding with prosecutions of those accused of responsibility for attacks targeting civilians do not stand up to scrutiny and raise a number of serious questions and human rights concerns:

Firstly, the retroactive application of new provisions in a revised Act would only raise further concerns under Nigeria's constitution and international human rights law. Article 36(8) of the constitution provides that "No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence" and article 15 of the ICCPR is to the same effect. The possibility of future additions to the criminal law cannot provide a valid ground for failing to proceed with the prosecution of individuals who are already in custody in relation to acts they are accused of having

already committed. Nor can it provide a valid ground for failing to release them if there is insufficient evidence to proceed with the prosecution.

Secondly, Nigeria's criminal laws and the Terrorism (Prevention) Act 2011 already criminalise most if not all of the behaviour relevant to Boko Haram (bombings and killings) and related activity (weapons and explosive storage, production or importation etc) as well as outlawing membership financing or support to a 'terrorist group.'

The failure to prosecute Boko Haram suspects has meant that justice is not being seen to be done, and confidence in the security forces to address the crimes and human rights abuses committed by Boko Haram is being eroded. A lawyer in Maiduguri told Amnesty International: "[The security forces] always take action [and] round up people. Of those people arrested, where are they now? After [they have been] arrested for a month, [the security forces] should be able to come out with something. [We've] heard that police are involved, heard that politicians are involved. Let the people know ... That is not enough. Who are their sponsors? Who are they working for? ... Every citizen also has a right to know."²³¹

TERRORISM (PREVENTION) ACT 2011

In June 2011 the President signed into law the Terrorism (Prevention) Act 2011. The stated aim of the Act is specifically to criminalise terrorism (although presumably, all attacks by Boko Haram or others targeting civilians would already have constituted serious crimes under existing Nigerian law). However, key provisions of the Act are incompatible with Nigeria's human rights obligations. Many of the provisions of the Act use terms and definitions that are imprecise and overbroad in scope, violating the 'legality' requirement for criminal offences, and/or unlawfully restricting a range of rights – such as freedom of thought, conscience and religion, freedom of opinion and expression, freedom of association and freedom of assembly – by failing to adhere to the requirements of demonstrable proportionality; some criminal-offence provisions reverse the legal burden of proof in a manner that violates the presumption of innocence as required by human rights law, or have similar issues related to *mens rea* (knowledge or intent) elements; some provisions relating to investigation, detention, and trial are not consistent with various provisions of human rights law; some administrative provisions lack any provision for meaningful access to effective legal remedies and procedural safeguards, consequently infringing the rights of due process in a fair hearing.²³² The Act stipulates that all trials under the act must take place at the Federal High Court. However, this undermines the child justice provisions of the Child Rights Act, applicable in the Federal Capital territory (FCT) since 2003, which states that children under the age of 18 may only be tried in Family Courts. The Terrorism (Prevention) Act has also been criticized for failing to clearly delineate which security agency is to take the lead in investigating crimes under the act. The Act has not been used widely to date.

In 2012 a review of the Act was announced, the new bill is expected to further empower the SSS and introduce special courts for all persons charged with terrorism related offences. At the time of writing the new bill had not been passed.

9.3 INADEQUATE LAW ENFORCEMENT

The police are the primary agency responsible for law enforcement in Nigeria. However, they lack the expertise and equipment to adequately police sectarian or other violence.²³³

The failure of the government to properly equip and train the police reduces their ability to ensure their own and other people's safety. Hundreds of police, military and SSS have been killed by Boko Haram since 2009. They have been shot and blown up in their stations, at roadblocks and in their homes. Scores of police stations across the north and north east of the country have been attacked by Boko Haram, some on numerous occasions. Many police stations in Maiduguri have received threatening letters from Boko Haram.

A human rights defender in Kano told Amnesty International: "Police face lot of problems; they are wearing army bullet proof because they don't have their own. They are afraid. They lack expertise. The pattern they are using [of roadblocks] wouldn't stop anything, you're just exposing yourself to danger, one sniper can take all of you."²³⁴

Several people complained that when an attack is taking place, the police and military do not go near the area until some time afterwards, sometimes hours later. One lawyer told Amnesty International: "The police and military were not able to offer any protection, Boko Haram don't even run away [after an attack]. They just walk away."²³⁵

INADEQUATE EQUIPMENT

Most police stations are badly maintained and poorly equipped.²³⁶ In many stations across the country there is no electricity, no running water and no sanitation facilities. Officers do not have enough basic equipment such as bullet-proof vests or handcuffs, and many stations are without access to vehicles and fuel. They are poorly paid and there are not enough barracks to accommodate them, which increases their vulnerability to attack.²³⁷

On 30 April 2012, a Mobile Police (MOPOL) base in Lafia, Nasarawa state, was attacked by unknown gunmen and one policeman was killed. The Nasarawa state Police Public Relations Officer told journalists that the attack was possible because the back of the base is not fenced.²³⁸

A Divisional Police Officer (DPO) who spoke anonymously to Amnesty International described his situation: "We have one patrol team car in the Local Government Area (LGA) and no fuel money; we got 15,000 naira [\$95] for fuel since August last year to [May 2012]. The only vehicle is given by the state government, not federal, and there is no money for fuel. We have no communication, we rely on personal GSM lines, and we were not given walkie talkies. ... Police people are not accommodated. I have 82 people under me. Eight are housed. The remaining have no accommodation. We have 39 stations and only three are fenced. The police stations are porous. I know several DPOs that haven't been on training in over 10 years. Some have given guns to new recruits who have never trained on how to use one [since passing out]... Corruption is from the top most. I'm the DPO, all that I'm given is not enough to manage the station. I have no chance but to tell my subordinates to run the station, no one is giving money for general administration."²³⁹

In February 2012, Sergeant Sunday Badang of the anti-bomb personnel was killed by a bomb that he was attempting to defuse in Kaduna. His death was recorded on video, where he was seen approaching the bomb without protective clothing or proper bomb disposal equipment.²⁴⁰

The inadequate training of police officers has previously been identified as a key reason for their failure to perform their duties.²⁴¹

Previous research by Amnesty International has found the Nigeria Police Force lack the necessary equipment for securing and examining crime scenes, ballistics and other forensic tests such as autopsies or medical examinations. There are only three forensics laboratories in the whole country. In Borno state, the site of almost daily attacks by Boko Haram, there is no forensics laboratory, and investigators have to send evidence to Force HQ in Abuja.²⁴²

In July 2012, the Inspector General of Police told Amnesty International: “Look at the conditions of the police service and what they go through... in terms of welfare and the service conditions under which they operate. We can meet the challenge; all we need is the best in terms of funding and equipment.”²⁴³

INADEQUATE RESOURCES ON THE FRONT LINE

In 2012, almost 20 per cent of Nigeria’s N4.877 trillion budget²⁴⁴ was allocated to security.²⁴⁵ Within that, N359.7 billion was allocated to Defence; N308.5 billion to the Nigeria Police Force (not including the Ministry Police Affairs and the Police Service Commission); N123.5 billion to the Office of the National Security Adviser/Intelligence and N159.3 billion to Interior.²⁴⁶ Under the proposed budget for 2013, spending on security is expected to increase to N1.055 trillion in 2013.²⁴⁷

A human rights activist in Kano told Amnesty International: “The police are not given sufficient funds for fuel for vehicles, allowances and equipment. Even in terms of personnel – you’ll find a LGA with 3 million people has 200-500 police officers. The officers in charge complain about some of the inadequacies and the lack of training. The security budget doesn’t trickle down.”

It is not clear if the security budget is insufficient or if there are other problems, but anecdotal evidence suggests a serious review is needed of how the budget is used.

9.4 THE MILITARY AS LAW ENFORCEMENT

The military are widely perceived to be better trained and better equipped and, including as part of a Joint Task Force, is increasingly taking a lead role in the law enforcement response to Boko Haram.²⁴⁸ However, the military also faces its own capacity challenges: on several occasions, senior military figures have publicly indicated a lack of resources, modern equipment, accommodation or training.

Although the military are increasingly carrying out law enforcement functions and exercising police powers, especially the powers of arrest and detention, they are failing to bring people to justice.

Moreover, it is questionable whether military equipment and training corresponds to the requirements of law enforcement, for example taking into account the different approaches to the use of force by the police and military in the contexts in which they more typically operate i.e. that the police operate under law enforcement standards that should reflect an international human rights framework, whereas the military are generally trained for operations in situations of armed conflict, where more permissive standards for use of force typically apply under international humanitarian law.

9.5 SPECIAL COURTS PROPOSED

In recent months, the Senate, the Office of the National Security Adviser (ONSA), and Defence Headquarters have expressed their support for the creation of special courts to expedite prosecutions for terrorism.²⁴⁹

In the White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, the judiciary was identified “as one of the major obstacles in the effort to check the activities of the sect” setting suspects free “on technical grounds.” The Report recommended that “the entire criminal justice system should awaken to the threat of terrorism facing the country and stop granting bail application in favour of murderers and bomb throwers.” The government noted the recommendation and said it “is taking steps to review the relevant laws.”²⁵⁰

Amnesty International is concerned that establishing special courts may limit or modify ordinary fair trial guarantees.

A fundamental principle of the right to fair trial is the right of every person charged with a criminal offence to be presumed innocent until and unless proved guilty according to law after a fair trial. The courts must not be asked to reduce fair trial protections or the burden of proof for offences that are deemed particularly serious or are connected to national security.

The lack of adequate investigation is the primary obstacle to successful prosecution and conviction. If there is not enough evidence against an individual to convict them, or to remand them in prison while the case is ongoing, the onus is on the prosecution to present better evidence – and the investigator to collect better evidence for use by the prosecutor.

In an interview with Amnesty International in Abuja in July 2012, the Federal Ministry of Justice appeared to recognise the need for better evidence for use by the prosecutor, pointing to “a disconnect between the prosecutor and the investigator... [The investigator] does his investigation in the dark so the prosecutor will send the case back to him saying they need more information.”²⁵¹ The Federal Ministry of Justice plans to introduce a code of conduct and guidelines for all prosecutors in the federation which would include guidance of the evidence necessary for conviction of criminal offences.²⁵²

The individual’s right to fair trial, with guarantees for the accused in criminal proceedings, lies at the heart of due process of law. Everyone facing a criminal trial or suit at law has the right to trial by a competent, independent and impartial tribunal established by law.²⁵³

While there are serious delays in the criminal justice system in Nigeria, and congestion in the courts, the value of creating an entirely new courts rather than strengthening of the existing system is questionable. As pointed out by the Ministry of Justice, “The overall idea should be to improve capacity within the judiciary overall. If you improve capacity across the system, they should be able to deal with every matter... What courts have done is to have special divisions: civil, criminal, family.”²⁵⁴

The UN Human Rights Committee, addressing obligations under article 14 of the ICCPR, has noted “trial of civilians in ... special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned.” Such trials

must be “limited to cases where the state party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials.” In the rare circumstances where such courts might be permitted, trials must still be “in full conformity with the requirements of article 14” and “its guarantees cannot be limited or modified because of the ... special character of the court concerned.”²⁵⁵

Amnesty International opposes as a matter of policy any trial of civilians by military or special courts. In any event, the organisation does not believe that the government has provided evidence capable of meeting the very high threshold that the Human Rights Committee has set, i.e. that it would be impossible for ordinary courts to handle the trials. To the contrary, it appears that the very purpose of establishing special courts would be to limit or modify the ordinary fair trial guarantees, which the Human Rights Committee has expressly said is forbidden regardless of the character of the Court.

9.6 ABSENCE OF WITNESS PROTECTION

On several occasions, people who have given information to the security forces about Boko Haram or have spoken out against the group have been attacked and killed.²⁵⁶ In some cases, it is alleged that security forces passed on information to Boko Haram.

An important component of the government’s duty to safeguard the population and protect the rights of victims is to ensure that persons who give evidence or testify are not placed at undue risk and are protected against reprisals in a manner compatible with the fair trial rights of the accused, for example through a witness protection system.

The lack of an adequate witness protection system is a powerful deterrent to potential witnesses in court. In a meeting with Amnesty International in 2011, the then Federal Director of Public Prosecutions confirmed that the reluctance of witnesses to testify for fear of retaliation was hindering prosecution of Boko Haram cases.²⁵⁷

A lawyer and resident of Maiduguri told Amnesty International: “They live among us. We know them. They are clients, friends, brothers. But if you are willing to assist the security forces, how sure are you? How safe are you? A few days ago when I was leaving my house I saw a man holding his gun. I was going to Mosque. But I could not call anyone because how safe am I? If I call anyone they will say ‘this number called us and gave us this information.’ We don’t have confidence in the security men. We see them [Boko Haram], but we can’t volunteer this information. We don’t have anybody we trust.”²⁵⁸

The Commissioner of Police, Borno state, told Amnesty International that they have distributed telephone numbers so that people can call the police anonymously with information.²⁵⁹ The police also offer rewards of up to \$3000 for information.²⁶⁰ However that has led to the belief that many people are informing on people for financial gain or for personal vendettas.²⁶¹

According to the Strategy for the Implementation of Justice Sector Reforms in Nigeria, published in August 2011, the Ministry of Justice plans to “improve respect for the rights of victim of crime in the criminal justice system” by drafting relevant legislation, including a witness protection bill, and developing related regulations and guidance on victims and

witness protection.²⁶² However, until these reforms are implemented, the ability of the state to protect informants remains limited. Any reforms must also be compatible with the right of accused persons under article 14(3)(e) of the ICCPR “To examine, or have examined, the witnesses against him.”

Allegations of corruption and collusion have also seriously undermined public confidence in Nigeria’s efforts to protect the population from attacks by Boko Haram. In addition to the absence of an effective witness protection system in Nigeria, the common perception is that the security forces have been infiltrated by or are providing information to, Boko Haram, including on people who have given information or evidence about them.

In January 2012, in a speech to mark 2012 Armed Forces Remembrance Day, President Goodluck Jonathan himself claimed that: “Some of them [Boko Haram] are in the executive arm of government, some of them are in the parliamentary/legislative arm of government while some of them are even in the judiciary... Some are also in the armed forces, the police and other security agencies.”²⁶³ Such allegations raise the possibility that some in the government are providing impunity to, or perhaps even actively facilitating attacks targeting civilians. While Amnesty International does not itself have any evidence to corroborate or disprove these allegations, the organisation stresses that such allegations must be subject to an independent and fair investigation that respects and fulfils the right to truth of society as a whole, and the victims of attacks in particular.²⁶⁴

9.7 INSUFFICIENT SUPPORT, JUSTICE, AND REPARATIONS FOR VICTIMS

“We didn’t receive compensation –although the commander of the JTF visited me in hospital three days after. He came with provisions and 10,000 naira [\$64]; that was all. The church wrote on my behalf to the government, to CAN [Christian Association of Nigeria], to NEMA [National Emergency Management Agency], none has responded up to now.” Pastor, Cocin Church, Jos

Few victims of attacks by Boko Haram or the security forces have received compensation or reparation, and there is no coherent nationwide policy on reparation.

Victims of human rights abuses have a right to effective remedy and reparation. This is true whether the abuses were at the hands of an armed group, such as Boko Haram, or at the hands of the state, including in its responses to Boko Haram. Such remedy and reparation should include compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.²⁶⁵ Mechanisms for reparations should be easily accessible, involve a simple procedure and allow for reparation to be provided for without undue delay.

In the case of armed groups, where reparation is not likely to be available from the armed group directly, states should consider establishing reparations programmes to ensure that victims receive prompt, full and effective reparations.²⁶⁶

States should also ensure that emergency medical and psychological assistance is available and accessible to any person having suffered mentally or physically following an attack such as those perpetrated against civilians by Boko Haram.²⁶⁷

In the White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, it was recommended that the government pay compensation to orphans and widows of the victims of the crisis²⁶⁸ and compensate human and organizational victims of the crisis, especially churches, mosques and schools.²⁶⁹ There is no coherent policy on compensation.

In Kano state, state and private individuals donated money after the 20 January 2012 attacks and money was distributed to some families, but residents said no provision was made for those who came forward later or who were not included in the original list of victims.

In Borno state, the government has been making some effort to compensate some people, paying for the rebuilding of houses and donating cars. In April 2010, the High Court, Borno state ordered the police to pay compensation in the case of Alhaji Baba Fugu, who was extrajudicially executed in police custody during the 2009 crisis. An appeal by the federal and state government was withdrawn in January 2012 and the state government paid the compensation. However, many people affected by the violence in Borno state have received nothing and some of those who are promised compensation said they did not receive it.²⁷⁰

A victim of a Boko Haram attack who was seriously injured and whose wife was killed, told Amnesty International that no one from state or federal government contacted him. He paid for his own medical treatment with the help of employers and friends.²⁷¹ For less wealthy people and those without generous employers, there are fewer options.

10. RELEVANT INTERNATIONAL HUMAN RIGHTS STANDARDS

Nigeria is a party to nine major international human rights treaties, but has not yet ratified all optional protocols to these treaties. Once ratified (or acceded to), the treaties are legally binding on Nigeria, which means that all states within the federation are required to respect, protect and fulfil human rights. Even where Nigeria has signed but not yet ratified a treaty (including an optional protocol), it has an obligation under international law “to refrain from acts which would defeat the object and purpose” of the treaty.²⁷²

INTERNATIONAL HUMAN RIGHTS TREATIES

The right to life, the right to liberty and security of person, the right to a fair trial, and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment are recognized and protected under the African Charter on Human and Peoples’ Rights,²⁷³ which Nigeria ratified in June 1983 and domesticated in 1983 in the African Charter on Human and Peoples’ Rights (ratification and enforcement) Act Cap 10 Laws of the Federation of Nigeria.

The same rights are recognized and protected under the International Covenant on Civil and Political Rights (ICCPR), to which Nigeria acceded in October 1993.²⁷⁴ These rights must be respected and ensured even “in time of public emergency which threatens the life of the nation.”²⁷⁵ The ICCPR also requires that all allegations of human rights violations are promptly, independently, impartially and thoroughly investigated. States are required to make violations such as torture and similar cruel, inhuman and degrading treatment, enforced disappearance and summary and arbitrary killings a criminal offence in domestic legislation, and to bring to justice those responsible. Individuals whose rights have been violated have the right to an effective remedy and reparation, which must not only be theoretically available in law but must function effectively in practice. States must take measures to prevent a recurrence of violations, which may require changes to the state party’s laws or practices.²⁷⁶

The UN Convention against Torture, which Nigeria ratified on 28 June 2001, requires states to prevent acts of torture or other ill-treatment by, or at the instigation of, state agents, or with their consent or acquiescence; to ensure that there is a prompt and impartial investigation into such acts; to ensure that acts of torture or complicity or participation in torture are punishable by criminal penalties which take into account their grave nature; to eliminate defences such as ‘superior orders,’ ‘public emergency’ or other any other ‘exceptional circumstances’ in relation to such offences; and to ensure that anyone responsible for such acts is brought to justice.²⁷⁷

The International Convention for the Protection of All Persons from Enforced Disappearance, to which Nigeria acceded on 27 July 2009, affirms the absolute prohibition of all acts of enforced disappearances, defined by the treaty as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the

disappeared person, which place such a person outside the protection of the law.” The treaty requires the Nigerian authorities to ensure that enforced disappearance constitutes an offence under Nigeria’s criminal law, punishable by appropriate penalties which take into account its extreme seriousness, and to investigate all cases of disappearances and bring those responsible to justice. In particular, state parties to the Convention must take measures to hold responsible persons who commit, order, solicit or induce an enforced disappearance; people who attempt to do so; and people who are accomplice to or participate in enforced disappearance. Again, states must ensure that ‘exceptional circumstance’ defences are not available in relation to the crime of enforced disappearance. Superiors are responsible if they knew or could have known that officers under their authority were committing an enforced disappearance; or if they failed to take measures to prevent an enforced disappearance or report to competent authorities. Family members and other interested persons have rights under the Convention to receive prompt access to information about the fate and whereabouts of anyone deprived of liberty by any authorities of the state on any grounds. Not only are the authorities required by the Convention to provide the information, states must ensure that judicial remedies are available to family members, lawyers and other interested persons to force the authorities to provide such information if it is initially denied or refused. States must also ensure that persons deprived of their liberty are released in a manner permitting reliable verification that they have actually been released.²⁷⁸

Nigeria ratified the Convention on the Rights of the Child (CRC) on 19 April 1991.²⁷⁹ However, Nigeria’s Child Rights Act, which is intended to implement provisions of the CRC into domestic law is yet to be enacted in 12 of the 36 states of the Federation. Nigeria signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 8 September 2000 but is yet to ratify it.²⁸⁰

Nigeria ratified the Rome Statute of the International Criminal Court on 27 September 2001.²⁸¹ States parties should take measures at the national level to ensure that states, who have primary responsibility, may effectively investigate and prosecute those responsible for crimes under the Statute – including genocide, crimes against humanity and war crimes. This will generally require enactment of implementing legislation to provide that these crimes under international law are also crimes under national law, no matter where, when or who has committed them or who is the victim. Nigeria played a key role at the Rome Diplomatic Conference in 1998 in supporting the adoption of the Rome Statute, and was one of the first states to sign and ratify the Statute. However, to date no legislation has been passed to fulfil Nigeria’s obligations under the Rome Statute. States parties to the Rome Statute are also under an obligation to cooperate fully with the Court in the investigation and prosecution of crimes under its jurisdiction.²⁸² On 18 November 2010 the Office of the Prosecutor of the ICC made public that it was conducting a preliminary examination of the situation in Nigeria, analysing alleged crimes committed since 2004.²⁸³

EXPERT BODIES

The views of the expert bodies established by these treaties, such as the Human Rights Committee, the Committee against Torture (and the Subcommittee on Prevention), the Committee on Enforced Disappearances, and the African Commission on Human and Peoples’ Rights, are an authoritative source of interpretation of obligations under each treaty.²⁸⁴ As a further aid to interpreting and implementing the more general provisions of the human rights treaties, the UN has developed more detailed standards including on conditions

and treatment in detention and the use of force in law enforcement. Such standards include: the Standard Minimum Rules for the Treatment of Prisoners; the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; the Basic Principles on the Role of Lawyers; the Rules for the Protection of Juveniles Deprived of their Liberty; the Standard Minimum Rules for the Administration of Juvenile Justice; the Principles on the Effective Prevention and Investigation of Extra-legal, Summary and Arbitrary Executions; the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; the Code of Conduct for Law Enforcement Officials; the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.²⁸⁵ Full and effective implementation by Nigeria of these UN standards, as well as the conclusions of the relevant treaty bodies, as expressed through General Comments, observations on state reports, and opinions on individual complaints, would significantly reduce the incidence of human rights violations by the Nigerian authorities, and the failure to bring perpetrators to justice.

DESTRUCTION OF HOMES

The destruction of homes and eviction of residents without adequate legal safeguards violates a range of human rights. The International Covenant on Economic, Social and Cultural Rights, to which Nigeria acceded in 1993, recognizes the right to “an adequate standard of living ... including adequate ... housing.”²⁸⁶ The ICCPR protects the right to the protection of the law against arbitrary or unlawful interference with a person’s privacy, family or home.²⁸⁷ The African Commission on Human and Peoples’ Rights has also affirmed that such forced evictions contravene the African Charter, in particular, Articles 14 and 16 on the right to property and the right to health, and Article 18 (1) on the state’s duty to protect the family.²⁸⁸

11. CONCLUSION

There is a vicious cycle of violence currently taking place in Nigeria. The Nigerian people are trapped in the middle.

Grave human rights abuses have been committed by Boko Haram: the attacks targeting civilians may constitute crimes against humanity. Responsibility for these abuses rests with the perpetrators, who must immediately cease all such practices.

At the same time, the government must take responsibility for its own failings where it has not deployed adequate measures to prevent abuses and hold those responsible to account. All those responsible for human rights abuses constituting crimes under Nigerian or international law should be brought to justice before the ordinary criminal courts in fair and public trials without recourse to the death penalty.

Further, many of the acts that the Nigerian authorities have undertaken in the name of countering the threats to the public posed by Boko Haram have themselves involved serious violations of human rights, including enforced disappearance, torture, and extrajudicial executions - crimes under international law which, by virtue of its international obligations, Nigeria is specifically required to investigate without delay and, where there is sufficient admissible evidence, to prosecute those responsible in fair trials without recourse to the death penalty.

Amnesty International calls on Boko Haram immediately to cease and refrain from all acts that are inconsistent with respect for human rights, including particularly the targeting of civilians for attack, a practice that can never be justified in any circumstances.

Amnesty International calls on the Government of Nigeria to take effective measures to prevent human rights abuses, whether committed by Boko Haram or by its own forces, to ensure that abuses that amount to crimes under national or international law, where there is sufficient admissible evidence, are prosecuted in fair trials without recourse to the death penalty.

In respect of all human rights violations and abuses, Nigeria is required to ensure proper investigations, as well as ensuring that all victims have access to effective remedies.

Only by clarifying the truth about events, bringing to justice those responsible and ensuring that victims obtain full reparation can confidence in the justice system be restored and human rights guaranteed.

Impunity fosters more unlawful violence. It also denies victims and their relatives the right to have the truth established and acknowledged, the right to see justice done and the right to full reparation.

12. RECOMMENDATIONS

The Nigerian government should recognize that the population will not be truly secure until everyone in Nigeria can be confident not only that the risk of attacks from Boko Haram has been reduced, but also that they will not face human rights violations at the hands of the very state security forces mandated with their protection.

Nigeria is urged to adopt measures that prevent, investigate and prosecute attacks by Boko Haram that target civilians and other such human rights abuses, while fully respecting and ensuring human rights in accordance with Nigeria's international obligations and commitments.

Nigeria is also urged to review budgetary allocations to ensure that resources are used in a way that adequately fulfils the country's human rights obligations. This includes preventing and addressing crime and human rights violations and abuses by state and non-state actors, in a way that respects human rights.

TO THE PRESIDENT

- Condemn publicly all human rights violations by the security forces, including extrajudicial executions and other unlawful killings, enforced disappearances, house burning and arbitrary detention and announce that perpetrators will be brought to justice where the violations constitute crimes under national or international law.
- Make public the findings of previous committees set up to investigate the security situation in northern and central Nigeria, including allegations of human rights violations by the security forces.
- Strengthen and promote the independence of the National Human Rights Commission (NHRC), including by ensuring that the Commission is granted the necessary powers and resources to fulfil its mandate and that commissioners are able to commence their duties.
- Work with the National Assembly to ensure ratification of the Protocol on the Statute of the African Court of Justice and Human Rights recognising its jurisdiction to hear claims regarding human rights violations in Nigeria, and make a declaration that would allow direct access to the court by individuals and NGOs; and ensure ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
- Cooperate fully with the ICC Office of the Prosecutor while it is making its assessment of whether crimes within the jurisdiction of the Court have been committed, especially by providing information about ongoing investigations and prosecutions in Nigeria and their outcomes to the ICC.

TO THE MINISTRY OF DEFENCE

- Review the Rules of Engagement of the JTF and other agencies carrying out law enforcement functions and bring them into line with Nigeria's Constitution and its obligations under international human rights law and standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

ON DESTRUCTION OF HOUSES BY THE JTF

- Ensure that all those whose homes have been unlawfully destroyed receive adequate compensation and are permitted to rebuild their homes in the same location.
- Ensure the JTF keep and publish accurate records of all homes destroyed or damaged. Such reporting should be part of the required operational debrief following any military operation. The records should also include detailed information about the circumstances of the damage to or destruction of each property.

TO THE MINISTRY OF JUSTICE

- Establish a comprehensive witness protection programme for the protection of individuals, including human rights defenders, involved in investigations or other proceedings against those accused of human rights abuses. Any witness protection programme must at the same time comply in all respects with the right to fair trial of the accused.
- Ensure that all allegations of state and non-state actors being implicated in serious human rights abuses are subjected to an effective, independent and impartial investigation, and implement measures to better ensure that those responsible are held accountable in a court of law in accordance with international standards of fair trial without recourse to the death penalty. Ensure that perpetrators of human rights abuses that constitute crimes under international or national law, including crimes against humanity, are brought to justice, in accordance with Nigeria's obligations under international human rights law.
- Ensure that families and dependants of victims of extrajudicial executions and enforced disappearances obtain fair and adequate reparation from the state, including financial compensation.
- Work with the National Assembly to enact legislation to incorporate into national law Nigeria's obligations under the International Covenant on Civil and Political Rights, in particular in relation to the protection of the right to life and the respect of fundamental judicial guarantees; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the International Convention for the Protection of All Persons from Enforced Disappearance; and the African Charter on the Rights and Welfare of the Child.
- Work with the National Assembly to enact implementing legislation as soon as possible, after transparent consultation with civil society, to ensure that Nigeria fulfils its obligations under both the Rome Statute and other international law.
- Work with the National Assembly to enact a Coroner's law to require an investigation into every unnatural, sudden or violent death, including all deaths in custody.

- Adequately resource and equip the National Committee on Torture to enable them to inspect all places of detention and publish their findings. Invite the UN Subcommittee on Prevention of Torture to advise and assist the Nigerian government in strengthening the National Committee on Torture.

TO THE MINISTRY OF POLICE AFFAIRS

- Ensure that adequate systems and mechanisms are put in place alongside training and regulations on the use of force and firearms to make sure that police apply the relevant UN standards in their daily work. This includes ensuring that police officers have access to a differentiated range of equipment, including adequate self-protective equipment, and that they have adequate training on the use of a range of equipment for the differentiated use of force, and other tactical methods, including open hand techniques (using no equipment), to apply the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Strengthen the capacity of law enforcement agencies and improve their training (including human rights law training) and equipment in the areas of forensics capabilities and other forensic tests, crime scene investigations and autopsies or medical examinations, in order to facilitate their ability to prosecute criminal abuses of human rights.

TO THE NATIONAL ASSEMBLY

- Amend section 33(2) of the Nigerian Constitution to the extent that it currently could be read as permitting the use of lethal force in circumstances broader than those permitted by international human rights law, including by narrowing its application to the circumstances contemplated by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

TO THE ARMED FORCES, POLICE AND THE STATE SECURITY SERVICE

- Ensure that all persons currently in police, JTF or SSS custody who have been detained for longer than 48 hours are immediately either charged with a recognizable criminal offence and brought before a court of law, or released.
- Ensure that all detainees suspected of a crime are brought before a court of law as soon as possible, and in any case within 24 or 48 hours where so required by Article 35 of the Nigerian Constitution, and in all cases within no more than a few days as required under article 9(3) of the International Covenant on Civil and Political Rights.
- Ensure that no-one is arrested or detained in relation to the prevention, investigation or prosecution of Boko Haram or similar attacks in the absence of reasonable grounds to suspect them of involvement in a specific criminal offence.
- Ensure that all detainees have access to a lawyer of their choosing immediately upon arrest, as well as access to relatives and doctors without delay and regularly thereafter.
- Ensure that no form of collective punishment is imposed, including through unlawful destruction of homes or other 'retaliatory' use of force, or by detaining or otherwise punishing individuals based solely on the acts of their family members. Enhance and periodically

refresh the training of all forces about their obligations under international human rights law in this area.

- Investigate and provide family members and other interested persons with any information regarding the fate and whereabouts of all individuals who may have been subjected to enforced disappearance.
- Ensure prompt, impartial and thorough investigations, in accordance with international standards, wherever there is reason to believe that any of its forces may have violated international human rights law. In particular, where use of force by security forces has resulted in injury or death, ensure that a prompt, thorough, independent, and impartial investigation into the incident is conducted. Investigations should conform to international human rights standards such as the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Furthermore, ensure that those with command responsibility are held to account for unlawful use of force, when appropriate.
- Ensure that assistance and medical aid is always given as swiftly as possible to those injured or otherwise affected by police or military use of force, and that relatives or close friends of the injured or affected are notified. Should the use of force result in injury or death, this should be reported immediately to superior officers.
- Ensure that security forces are fully aware of and comply with their obligations to respect human rights under the Constitution and international human rights law. This includes among other things: ensuring detailed training on the necessity, proportionality and limits of use of force, including practical training on use of weapons to ensure minimal injury; ensuring they have access to a differentiated range of police equipment, including adequate self-protective equipment; and that they have adequate training on the use of a range of equipment for the differentiated use of force, and other tactical methods, including open-hand techniques (using no equipment); ensuring they understand the content and obligation to respect and apply UN standards such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Ensure that all police and military officers are individually identifiable, by means of names or numbers worn visibly on their uniform, including when they are wearing special gear such as helmets or other protective clothing, in order to ensure that members of the public can identify any official for purposes of making a complaint.
- Ensure that self-defence equipment (e.g. shields, helmets and bullet-proof clothing) is made available to all military, police and SSS officers and is used to help reduce recourse to the use of force, or to lessen the degree of force used, in self-defence.
- Ensure the right of everyone in Nigeria, including police personnel, to just and favourable working conditions, including adequate remuneration as provided for in international legal standards, including the International Covenant on Economic, Social and Cultural Rights.

TO THE NATIONAL HUMAN RIGHTS COMMISSION

- Take a pro-active role in ensuring that relatives of victims of extrajudicial executions, other unlawful killings and enforced disappearances have access to justice.
- Ensure an effective and independent complaints system for extrajudicial executions, enforced disappearances, torture and other ill-treatment; and ensure that all suspected cases of extrajudicial executions, other unlawful killings and enforced disappearances are investigated.
- Exercise authority to investigate human rights violations and visit all places of detention, in particular Giwa barracks, Maiduguri, Borno state; SARS police station, Abuja; SARS police station, Maiduguri; and SSS Headquarters, Abuja.
- Make every effort to keep a record of all civilian casualties in current and ongoing violence.

TO THE NATIONAL COMMITTEE ON TORTURE

- Exercise your power to investigate human rights violations and visit all places of detention, in particular Giwa barracks, Maiduguri, Borno state; SARS police station, Abuja; SARS police station, Maiduguri; and SSS Headquarters, Abuja.

TO THE INTERNATIONAL COMMUNITY

- Amnesty International calls on Nigeria's donors and partners to encourage and assist the Government of Nigeria to fulfil its human rights obligations and to ensure that it is adequately equipped to do so, in protecting civilians from abuses by non-state armed groups, and in conducting counter-terrorism and other law enforcement operations in a way that respects human rights.
- Publicly condemn practices in Nigeria that violate human rights, including unlawful killings, arbitrary detentions, enforced disappearances, torture and other ill-treatment, and cooperate with the Nigerian government in ending these practices.

TO *JAMA'ATU AHLIS SUNNA LIDDA'AWATI WAL-JIHADL* [BOKO HARAM]

- Cease immediately all abuses of human rights, including particularly attacks targeting civilians and civilian objects (including schools) as well as any other attacks that are indiscriminate or otherwise fail to give due respect to the lives or safety of civilians.
- Remove any members suspected of abuses of human rights from positions and situations where they might continue to perpetrate abuses.

ENDNOTES

1 Amnesty International interview [name withheld] Maiduguri, June 2012.

2 The violations and abuses have been documented in media reports and by other organisations, including by Nigerian NGO Spaces for Change (<http://spacesforchange.blogspot.co.uk/2012/02/bloodshed-pandemonium-trail-joint-task.html>) and Human Rights Watch, in their 2012 report "Spiralling Violence: Boko Haram Attacks and Security Force Abuses in Nigeria." <http://www.hrw.org/reports/2012/10/11/spiraling-violence-0>.

3 Amnesty International interview [name withheld] Abuja, July 2012.

4 Amnesty International telephone [name withheld], July 2012.

5 See, for instance, article 7 of the Rome Statute of the International Criminal Court, 2187 UNTS 3, entry into force 1 July 2002. Nigeria ratified the Rome Statute on 27 September 2001, which entered into force on 1 July 2002. The violence in Nigeria does not appear to have reached the level where it would constitute an armed conflict at this time.

6 Amnesty International news monitoring 2009 to date.

7 Amnesty International interview with Maiduguri based lawyer [name withheld], interview conducted in Abuja, February 2012.

8 In August 2009, Boko Haram released a statement saying "Boko Haram actually means 'Western Civilisation is forbidden.' The difference is that while the first gives the impression that we are opposed to formal education coming from the West, that is Europe, which is not true, the second affirms our belief in the supremacy of Islamic culture for culture is broader, it includes education but not determined by western education."

9 In the 1980s, Yusuf was a student of Zakzaky, an Islamic scholar who advocated the creation of an Islamic state (an Islamic government and Islam as a state religion). According to Zakzaky, working for the government was haram [forbidden] and he encouraged his followers to shun the state and to reject employment in the police, military or any government agency. In 1994, Zakzaky's movement broke up. Some followers remained with Zakzaky, others broke away from him and joined other groups, including Jama'at al Tajdidi Islam (JTI), a Sunni movement. Muhammad Yusuf also left Zakzaky and joined JTI to become deputy Emir of JTI in Maiduguri under Sheik Jafar Adam, an Islamic scholar. In 1999-2000, Yusuf left JTI and formed his own group, which in 2003 became known as Jama'atu Ahlis Sunna Lidda'awati Wal-Jihadl (JAS), or Boko Haram. In 2003, a group of people believed to be followers of Yusuf established a camp, known as 'Afghanistan', in Geidam Local Government Area, Yobe state. Commonly referred to as the 'Nigerian Taliban' the group rejected the Nigerian state and wished to establish a community based on Islamic law. In December 2003 the group was alleged to have carried out attacks on police stations in Geidam and Kanamma, Yobe State; and in 2004 against police stations in Borno state in 2004. See J. Peter Pham, "Boko Haram's Evolving Threat", p2-3, <http://www.ndu.edu/press/lib/pdf/Africa-Security-Brief/ASB-20.pdf> and Nigeria's Vanguard Newspaper, "Nigeria: Trial of Mohammed Ashafa - the Making of Another Mohammed Yusuf, Boko Haram Leader" <http://allafrica.com/stories/201203120553.html> Muhammad Yusuf was alleged to be the leader of the group – something he denied – and was twice arrested and arraigned in court however the trials never progressed. See Nigeria's 'Taliban' plot comeback from hide-outs, AFP, 11 Jan 2006, <http://mg.co.za/article/2006-01-11-nigerias-taliban-plot-comeback-from-hideouts> Nigerian Muslim cleric detained over al Qaeda case, Reuters, <http://www.bdnnews24.com/details.php?id=51208&cid=1> (last accessed October 2012).

In 2007, Panshekera Police station in Kumbotso LGA was attacked, the 'Nigerian Taliban' were accused of carrying out the attack but nothing was proved. See US state department "Country Report on Terrorism" 2008, <http://www.state.gov/j/ct/rls/crt/2007/103705.htm> (last accessed October 2012).

10 See Nigeria's 'Taliban' plot comeback from hide-outs, AFP, 11 Jan 2006, <http://mg.co.za/article/2006-01-11-nigerias-taliban-plot-comeback-from-hideouts> (last accessed October 2012).

11 Operation Flush had been established in early 2009 by the Borno state government to check armed robbery and kidnapping. It quickly became notorious for extortion, violence and extrajudicial executions.

12 See "Shooting of 17 mourners raises tension in Maiduguri" Weekly Trust, 13 June 2009, http://weeklytrust.com.ng/index.php?option=com_content&view=article&id=287:shooting-of-17-mourners-raises-tension-in-maiduguri-&catid=41:news&Itemid=30 (last accessed October 2012).

13 Amnesty International interviews with human rights defenders, journalists and lawyers [names withheld], Maiduguri, March 2010 and June 2012. See also "Nigerian sect planned bomb attack during Ramadan", Reuters, 4 August 2009, http://thestar.com.my/news/nastory.asp?file=/2009/8/4/worldupdates/2009-08-04T142605Z_01_NOOTR_RTRMDNC_0_-415239-1&sec=Worldupdates (last accessed October 2012).

14 See "Over 30 police slain in Nigeria religious uprising: official," AFP 28 July 2010.

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- 15 Amnesty International interviewed witnesses by telephone in July 2009 and in person in Maiduguri in March 2010. See Amnesty International public statement, "Nigeria: Killings by security forces in Northern Nigeria" at <http://www.amnesty.org/en/library/info/AFR44/028/2009>. See also "Video shows Nigeria 'executions,'" Al Jazeera, video report, February 9, 2010, <http://english.aljazeera.net/news/africa/2010/02/2010298114949112.html> (last accessed October 2012).
- 16 "Who are Nigeria's Boko Haram Islamists?" <http://www.bbc.co.uk/news/world-africa-13809501> (last accessed October 2012).
- 17 Statement By Leader of Nigeria's Delegation, Chief Michael Kaase Aondoakaa, SAN, Honourable Attorney General of the Federation and Minister of Justice on The Occasion of the Visit of Nigeria's Delegation to the High Commissioner for Human Rights, United Nations Human Rights Council, Geneva, Switzerland, August 13, 2009. See also "BOKO HARAM: History, ideas and revolt (6)" <http://www.vanguardngr.com/2011/07/boko-haram-history-ideas-and-revolt-6/> (last accessed October 2012).
- 18 A Presidential Committee on the Security Challenges in the North-East Zone of Nigeria was inaugurated on 2 August 2011. It submitted its final report in September 2011. In May 2012 the government published a white paper on the report. The Committee found that "late President Umaru Musa Yar'Adua...ordered an inquiry into Police handling of the case, no Government White Paper was issued on the outcome of the enquiry." (White Paper, para 23, page 9). In response, the government comments "the late President Yar'Adua did not order any enquiry into this matter, rather he directed the Police to investigate the matter and the result of that investigation has led to the on-going trial of the suspects." (para 25, p9).
- 19 See "Nigeria policemen in court trial for Boko Haram killing" BBC newsonline, <http://www.bbc.co.uk/news/world-africa-14136185> (last accessed October 2012).
- 20 See US State Department 2011 Human Rights Reports: Nigeria <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186229.htm> (last accessed October 2012).
- 21 See "Nigeria: Boko Haram - Sheriff Inaugurates Investigative Committee: <http://allafrica.com/stories/200908180174.html>" (last accessed October 2012). In March 2010, Amnesty International met with representatives from Borno state Ministry of Justice in Maiduguri, including the Attorney General of Borno state, the Solicitor General and Permanent Secretary, the Director of Legal Drafting, the Director of Public Prosecution, who told Amnesty International that the state government had established a committee following the 2009 crisis to identify the causes, make recommendations and document cases of lives and properties lost. According to the Borno state Ministry of Justice representatives, the final report and a White Paper had been submitted to the Chair of the Committee, the Political Officer of the Governors Office Mr Muhammad Musa, and thus they were unable to share either the report of the White Paper with Amnesty International.
- 22 Abubakar Shekau, Abubakar Adam Kambar, and Khalid al-Barnawi were designated global terrorists under Executive Order 13224. The designation "blocks all of Shekau's, Kambar's and al-Barnawi's property interests subject to U.S. jurisdiction and prohibits U.S. persons from engaging in transactions with or for the benefit of these individuals." <http://www.state.gov/r/pa/prs/ps/2012/06/193574.htm> (last accessed October 2012).
- 23 Maiduguri Metropolitan, Gbomoru Ngala, Banki Barna, Biu and Jere LGAs in Borno state; Jos North, Jos South, Barikin –Ladi and Riyom in Plateau state; Damaturu, Gaidam, Potiskum, Buniyadi – Gujba and Gasau – Bade in Yobe state; and Suleja in Niger state.
- 24 Emergency Powers Act. Emergency Powers (General) Regulations, 2012, S.I.15 of 2012.
- 25 Section 45, Chapter 4, Constitution of the Federal Republic of Nigeria 1999.
- 26 Reported in Nigeria Defence: "FG banks on military reforms to help tackle insecurity" <http://nigeriadefence.com/story.aspx?Sid=605>, (last accessed October 2012).
- 27 Writing in a Defence Headquarters publication, 'X-raying the activities of operation restore order in Borno state in Nigeria' Defence Magazine, 1st Edition 2012, ISSN 1118-5724, p28.
- 28 Amnesty International interviews, [names withheld] Abuja and Maiduguri, May, July, 2012.
- 29 White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, May 2012, p9-10
- 30 White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, May 2012, p9-10
- 31 Amnesty International telephone interviews and monitoring of Nigerian and foreign media reports.
- 32 "Nigeria violence: Seven dead after Boko Haram attacks" <http://www.bbc.co.uk/news/world-africa-18386156> (last accessed October 2012).
- 33 See "Boko Haram Drops Flyers All Over Kano After Bombings" African Spotlight, 21 January 2012 <http://africanspotlight.com/2012/01/boko-haram-drops-flyers-all-over-kano-after-bombings/> (last accessed October 2012).
- 34 A spokesperson for the UN Office for the High Commissioner for Human Rights in a statement to the press on 22 June 2012, condemned repeated attacks on churches in Nigeria and said that "acts against civilians, including on grounds such as religion or ethnicity, could amount to crimes against humanity." For more information generally, see Human Rights Watch, Spiralling Violence: Boko Haram Attacks and Security Force Abuses in Nigeria, October 2012, available online at <http://www.hrw.org/sites/default/files/reports/nigeria1012webcover.pdf>
- 35 Amnesty International interview with Maiduguri resident [name withheld], interview conducted in Abuja, February 2012.
- 36 Amnesty International interview with Maiduguri lawyer [name withheld], interview conducted in Abuja, February 2012
- 37 Amnesty International monitoring of media reports and Boko Haram statements.

38 For example, on 3 July 2011, at Wulari Mammy market in Maiduguri, Borno State, a bomb exploded killing eight people and injuring 15 others. Another bomb exploded one hour later near Kano Motor Park, Maiduguri: <http://www.tribune.com.ng/index.php/front-page-news/24483-bomb-blast-rocks-maiduguri-again-8-killed-as-boko-haram-kills-4-in-another-attack> (last accessed October 2012).

39 See Thisday newspaper 29 January 2011 "Borno ANPP Guber Candidate, governor's brother, 5 other Shot Dead"

<http://www.transparencynigeria.com/index.php/news-categories/82-law-crime-a-judiciary/3340-borno-anpp-guber-candidate-governors-brother-5-other-shot-dead> (last accessed October 2012).

40 See "Boko Haram' gunmen kill Nigerian Muslim cleric Birkuti" BBC newsonline, 7 June 2011, <http://www.bbc.co.uk/news/world-africa-13679234>

41 See "Abuja attack: Car bomb hits Nigeria UN building." BBC newsonline. 27 August 2011 <http://www.bbc.co.uk/news/world-africa-14677957>. (last accessed October 2012). "A spokesman for the Islamist group Boko Haram told the BBC in a phone call that it had carried out the attack."

42 See "Nigeria Boko Haram attack 'kills 63' in Damaturu." BBC newsonline, 5 November 2011. <http://www.bbc.co.uk/news/world-africa-15605041> (last accessed October 2012).

43 See "Gunmen kill seven in Maiduguri" Vanguard newspaper, 19 April 2012. <http://www.vanguardngr.com/2012/04/gunmen-kill-seven-in-maiduguri/> (last accessed October 2012). Local human rights defenders told Amnesty International that the men were killed in retaliation for the rumoured death by poisoned bread of Boko Haram members in Maiduguri prison. At least 45 people disappeared from prison custody in May 2011. They had been detained at Maiduguri Maximum Security Prison since 2009, after the first BH uprising. Their family members believe their relatives died in the prison. The May 2012 White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria recommended that the government investigate claims that prisoners were poisoned. The authorities denied any such incident took place. Amnesty International has itself no information on which to evaluate the allegations or the authorities' response.

44 See for example Nigeria's Boko Haram suspected in Kano police attack." 30 January 2012. BBC newsonline. <http://www.bbc.co.uk/news/world-africa-16786025> (last accessed October 2012).

45 Amnesty International interview with civil society representatives, lawyers and journalists [names withheld], Kano, May 2012.

46 Amnesty International interview with civil society representatives, lawyers and journalists [names withheld], Kano, May 2012.

47 Amnesty International interview with journalist [name withheld], Kano, May 2012.

48 Amnesty International interview with journalist [name withheld], Kano, May 2012.

49 Amnesty International interview with lawyer [name withheld], Abuja, February 2012.

50 See for example a threat issued by Boko Haram in August 2012, published on Sahara Reporters website: <http://saharareporters.com/news-page/boko-haram-claims-responsibility-attack-vp-sambo%E2%80%99s-home> (last accessed October 2012).

51 Amnesty International interview with Maiduguri resident and community leader [name withheld], July 2012.

52 See "NIGERIA: Timeline of Boko Haram attacks and related violence" IRIN, 20 January 2012, <http://www.irinnews.org/Report/94691/NIGERIA-Timeline-of-Boko-Haram-attacks-and-related-violence>. (last accessed October 2012).

53 See "6 slaughtered as explosions rocks Maiduguri" Daily Trust newspaper 3 February 2012; <http://www.dailytrust.com.ng/index.php/news/153910-6-slaughtered-as-explosions-rock-maiduguri?device=iphone> (last accessed October 2012).

54 Amnesty International interview [name withheld], Maiduguri, June 2012.

55 See "How Boko Haram chief holed up in Kaduna - Our man was deceived — Sect" Newsdiary. 3 February 2012. <http://newsdiaryonline.com/holed.htm>. (last accessed October 2012).

56 He stated, "We succeeded in eliminating all those that contributed to the arrest of our member, and whoever plans to do same should prepare to pay the price.... we have severally warned the public to desist from conspiring with security agents to thwart our course, as those found wanting will be blacklisted as enemies of Islam and will definitely face the harsh treatment we have been meting out to our targets." See "Nigeria: Why We Attacked Maiduguri Market - Boko Haram"

Leadership newspaper 22 February 2012. <http://allafrica.com/stories/201202220207.html>. (last accessed October 2012).

57 The full statement was published on Sahara Reporters website: <http://saharareporters.com/news-page/boko-haram-claims-responsibility-attack-vp-sambo%E2%80%99s-home>. (last accessed October 2012).

58 For example, in November 2011 at least 65 people were killed in Damaturu in bomb attacks on churches, mosques and police stations. Boko Haram claims responsibility. On 24 December 2010 at least 80 people were killed in bombings, including attacks on churches, around Jos. Boko Haram claims responsibility for the attacks, which trigger deadly clashes between Muslim and Christian youths. On 25 December 2011 Boko Haram attacked three churches in Madalla, Jos and Damaturu. The bomb attack on Saint Theresa Catholic Church in Madalla near Abuja reportedly killed 42 worshippers. A spokesperson from Boko Haram, Abdul Qaqa claimed responsibility for the attacks in an interview with Nigerian newspaper Daily Trust; (see "Boko Haram claims responsibility for Nigeria attacks" Daily Telegraph, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/8977493/Boko-Haram-claims-responsibility-for-Nigeria-attacks.html>). On 5 Jan 2012 six people were killed when gunmen attacked a church in Gombe city. Boko Haram claimed

responsibility. On 6 January 2012 17 people were reportedly killed in Mubi in Adamawa state after gunmen opened fire in a town hall where members of a Christian Igbo group were meeting. Boko Haram claimed responsibility; (see "Nigeria Christians hit by fresh Islamist attacks" BBC online, 7 January 2012 <http://www.bbc.co.uk/news/world-africa-16442960>). On 26 February 2012 two people were killed when a suicide bomber drove a car into a church in Jos. Boko Haram claimed responsibility. On 3 June 2012 a suicide bomber drove a car into a church in Yelwa, Bauchi state, killing at least 12 people. Boko Haram claimed responsibility. On 10 June 2012, gunmen attacked people attending a church service in Biu, killing at least 1 person, while a suicide bomber drove a car into Christ Chosen Church in Jos, injuring at least 50 people. Bystanders mistook a member of the congregation for one of the bombers and beat him to death. Boko Haram claimed responsibility for both attacks; (see "Boko Haram Church attacks kill 3 wound dozens" AFP 10 June 2012, <http://www.capitalfm.co.ke/news/2012/06/boko-haram-church-attacks-kill-3-wound-dozens/>). On 17 June 2012 co-ordinated suicide bombings at three separate church services in Kaduna resulted in the deaths approximately 30 people. Reprisal attacks resulted in the deaths of approximately 20 more people. It is estimated that over 130 people were injured by the bombings and reprisal attacks (see <http://tribune.com.ng/index.php/front-page-news/42713-25-killed-3-churches-bombed-in-kaduna-zaria-24-hrs-curfew-imposed-jonathan-sad-reluctant-to-talk-at-church-service> and <http://www.bbc.co.uk/news/world-africa-18496285>). See also Reuters "Fact box on recent Boko Haram strikes on Nigerian churches" 17 June 2012 <http://blogs.reuters.com/faithworld/2012/06/17/factbox-on-recent-boko-haram-strikes-on-nigerian-churches/>; "Army, Boko Haram Clashes Continue in Maiduguri, Damaturu," Thisday newspaper, 24 December 2011, <http://www.thisdaylive.com/articles/army-boko-haram-clashes-continue-in-maiduguri-damaturu/105712/>; BBC 7 January 2012 "Nigeria Christians hit by fresh Islamist attacks" <http://www.bbc.co.uk/news/world-africa-16442960>. A number of other similar attacks have been carried out on churches but no one has claimed responsibility. For example, on 14 October 2012, a family of three were reportedly killed outside a church in Maiduguri; (see "Four killed in blast, gun attacks in Maiduguri" Vanguard newspaper, 14 October 2012, <http://www.vanguardngr.com/2012/10/roadside-blast-kills-four-in-maiduguri/>). On 23 September 2012, 2 people were reported killed when a bomb exploded in Bauchi. (see "Nigeria church bombed in Bauchi, Boko Haram flashpoint" BBC online, 23 September 2012, <http://www.bbc.co.uk/news/world-africa-19691781>). On 6 August 2012, 15 people were reported killed when unidentified gunmen opened fire in a church in Okene. (see "Gunmen raid Deeper Life Church Okene killing 15 worshippers" Sahara reporters, 6 August 2012, <http://saharareporters.com/news-page/gunmen-raid-deeper-life-church-okene-killing-15-worshippers>). On 17 June 2012, several people were reported killed when unidentified gunmen opened fire in two churches in Zaria. see "Church Bombings Zaria" Sahara reporters, 17 June 2012, (<http://saharareporters.com/news-page/church-bombings-zaria>). On 29 April 2012, a church service in BUK University was attacked. A bomb was detonated and grenades were thrown inside lecture theatres being used for church services and as people ran out of the buildings for safety, gunmen opened fire on them. At least 25 were killed; (see More deaths reported BUK University Christian fellowship-attack-25-dead-including-two-prom), Sahara reporters 29 April 2012, <http://saharareporters.com/news-page/more-deaths-reported-buk-university-christian-fellowship-attack-25-dead-including-two-prom>). On 8 April 2012 a bomb exploded at a church in Kaduna during the Easter Sunday service, killing at least 38 people; (see "Nigerian Easter bomb kills many in Kaduna" BBC online 9 April 2012, <http://www.bbc.co.uk/news/world-17650542>). On 19 February 2012, a bomb exploded near church in Suleja, Abuja; (see "Suleja Bomb blast: How scores escaped death in church" Vanguard newspaper, 21 February 2012, <http://www.vanguardngr.com/2012/02/suleja-bomb-blast-how-scores-escaped-death-in-church/>). On 5 January 2012 gunmen open fire on church service in Nasarawa, Gombe state, killing six people. The attack follows a warning from Boko Haram published in local newspapers that Christians have three days to leave majority Muslim northern Nigeria or they will be killed.

59 Amnesty International telephone interviews with residents of Jos, Plateau state [names withheld], December 2011.

60 See "Madalla bomb blast victims buried amidst tears" Vanguard Newspaper, 2 February 2012, <http://www.vanguardngr.com/2012/02/madalla-bomb-blast-victims-buried-amidst-tears/>. (last accessed October 2012).

61 In a statement to the Daily Trust newspaper, Boko Haram said "By the grace of God, we are responsible for all the attacks today (Sunday)... What we did was a reminder to all those that forgot the atrocities committed against our Muslim brothers during the Eid-el Fitr celebrations in Jos. Many Muslims were killed but the Federal Government and the international community maintained sealed lips." See "Boko Haram claims responsibility for Nigeria attacks" Daily Telegraph, <http://www.telegraph.co.uk/news/worldnews/africaandindianocan/nigeria/8977493/Boko-Haram-claims-responsibility-for-Nigeria-attacks.html>. (last accessed October 2012).

62 See www.helpabombblastvictim.org. (last accessed October 2012).

63 See "Nigeria violence: Seven dead after Boko Haram attacks." BBC News online. 10 June 2012. <http://www.bbc.co.uk/news/world-africa-18386156>. (last accessed October 2012).

64 See "25 killed, 3 churches bombed in Kaduna, Zaria • 24 hrs curfew imposed • Jonathan sad, reluctant to talk at church service." Nigeria Tribune. 18 June 2012. <http://tribune.com.ng/index.php/front-page-news/42713-25-killed-3-churches-bombed-in-kaduna-zaria-24-hrs-curfew-imposed-jonathan-sad-reluctant-to-talk-at-church-service/>. (last accessed October 2012). and "Nigeria's Boko Haram 'bombed Kaduna churches.'" BBC newsonline. 18 June 2012. <http://www.bbc.co.uk/news/world-africa-18496285>. (last accessed October 2012).

65 See, for example, United States Commission on International Religious Freedom, March 2012, at <http://www.unhcr.org/refworld/country,,USCIRF,,NGA,,4f71a675a,0.html>; (last accessed October 2012).

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- 66 See Amnesty International's 2011 publication "Nigeria: Loss of life, insecurity and impunity in the run-up to Nigeria's elections" <http://www.amnesty.org/en/library/asset/AFR44/005/2011/en/c7365bb1-8eb5-41c2-be6b-a5338128746a/af440052011en.pdf>; (last accessed October 2012).
- 67 See for example Amnesty International's publication "Human Rights Agenda for Nigeria 2011-2015" p30-32 <http://www.amnesty.org/en/library/asset/AFR44/014/2011/en/5a1b7540-3afc-43ec-978c-3eab4c10d9ff/af440142011en.pdf> (last accessed October 2012).
- 68 There have been numerous Commissions of Inquiry into the Plateau state violence, including the 2008 Prince Bola Ajibola Commission of Inquiry; the 2009 Abisoye Panel of Inquiry; and the 2010 Solomon Lar Presidential Administrative Panel. The findings of the 2008 Prince Bola Ajibola Commission of Inquiry were never published or implemented. The 2009 Abisoye Panel of Inquiry is yet to submit its final report. In August 2010, President Jonathan pledged to implement the recommendations of the Solomon Lar Presidential Advisory Committee, established on 1 February 2010 to investigate the violence in the state, however, no further action seems to have been taken and neither the report nor the recommendations have been made public. There were also Commissions of Inquiry into the 1994 violence and the 2001 violence; their recommendations were never implemented.
- 69 Amnesty International interview telephone interview with Reverend [name withheld], August 2012.
- 70 Amnesty International interview with journalist [name withheld], Kano, May 2012.
- 71 "Why we attacked ThisDay, others – Boko Haram." Vanguard newspaper. 27 April 2012. <http://www.vanguardngr.com/2012/04/why-we-attacked-thisday-others-boko-haram/>. (last accessed October 2012).
- 72 See "UPDATED WITH FULL TRANSCRIPT: Boko Haram Releases Video On ThisDay Bombing, Threatens To Attack VOA, Guardian, Daily Trust, Sahara Reporters," Sahara Reporters, 1 May 2012; <http://saharareporters.com/video/updated-full-transcript-boko-haram-releases-video-thisday-bombing-threatens-attack-voa-guardia>; (last accessed October 2012).
- 73 Amnesty International interview with journalist [name withheld], Kano and Maiduguri, May, July, 2012.
- 74 Amnesty International interview with a journalist [name withheld], Kano, May 2012
- 75 In "Nigerian sect says killed journalist for spying." 25 October 2012. <http://af.reuters.com/article/topNews/idAFJOE79O05K20111025>; (last accessed October 2012).
- 76 Amnesty International interview with a journalist, [name withheld], Kano, May 2012
- 77 Amnesty International interview with journalist [name withheld], Kano, May 2012.
- 78 Amnesty International interview with journalist [name withheld] Kano, May 2012
- 79 Amnesty International interview with journalist [name withheld] Kano, May 2012
- 80 Amnesty International interview with journalist [name withheld], Kano, May 2012.
- 81 Amnesty International interview with headmistress of school [name withheld], Maiduguri, July 2012.
- 82 See for example "3 more schools destroyed in Borno." Daily Trust, <http://www.dailytrust.com.ng/index.php/other-sections/lead-stories/156028-3-more-schools-destroyed-in-borno?device=xhtml>; (last accessed October 2012).
- 83 Amnesty International telephone interviews with human rights defenders in Maiduguri, March 2012, and reported in newspaper, for example, "Nigeria: Boko Haram Attacks Force 10,000 Out of School." Daily Trust 5 March 2012. <http://allafrica.com/stories/201203050120.html>; (last accessed October 2012).
- 84 "Why we attacked schools - Boko Haram." Daily Trust. 6 March 2012. http://dailytrust.com.ng/index.php?option=com_content&view=article&id=156311:why-we-attacked-schools-boko-haram-&catid=1:news&Itemid=2; (last accessed October 2012).
- 85 "Nigeria: Gunmen Sack Four Maiduguri Schools." Daily Trust. 29 February 2012. <http://allafrica.com/stories/201202290228.html>. (last accessed October 2012).
- 86 Amnesty International interview with headmistress of school [name withheld], Maiduguri, July 2012.
- 87 Amnesty International interview [name withheld], Maiduguri, July 2012.
- 88 For example see chapter 5 of this report.
- 89 For example, in 2012 a military Committee chaired by General A Debro was established to investigate alleged atrocities by the JTF in Maiduguri. The report of the Committee was never made public. In a meeting with Amnesty International in Abuja in July 2012, the Defence Headquarters spokesperson told Amnesty International delegates that the report of the Committee was confidential, but that that committee had found no evidence of wrongdoing by the JTF.
- 90 Amnesty International telephone interview with lawyer in Maiduguri [name withheld], July 2011.
- 91 See article 6 of the ICCPR, article 4 of the African Charter; Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979, article 3; UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 ("UN Basic Principles on the Use of Force"). These standards expressly state that they apply "to all officers of the law, whether appointed or elected, who exercise police powers,

especially the powers of arrest or detention" and that "where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services."

92 UN Basic Principles on the Use of Force, Principles 6, 11(f), 22, 23, and 24; Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, recommended by Economic and Social Council resolution 1989/65 of 24 May 1989, articles 9 to 17; Human Rights Committee, General Comment no 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), paragraph 15.

93 Nigeria's Constitution and the Nigeria Police Force Order 237 (Rules for guidance in use of firearms by the police) provide much broader grounds for the use of lethal force than is permissible under international law and standards. However, neither the Constitution nor the Force Orders permit police officers to shoot suspects and detainees who are unarmed, lying down or with their hands over their head and cooperating with police officers.

94 See, e.g., UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, recommended by Economic and Social Council resolution 1989/65 of 24 May 1989, Article 1. Amnesty International opposes any recourse to the death penalty in any circumstances.

95 See UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, recommended by Economic and Social Council resolution 1989/65 of 24 May 1989, Article 18; Human Rights Committee, General Comment no 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, paragraph 18;

96 Amnesty International interview [name withheld], Maiduguri, July 2012.

97 Nigeria Police Force Order 237 (Rules for guidance in use of firearms by the police), section 3.

98 E/CN.4/2006/53/Add.4

99 Amnesty International interview [names withheld] Maiduguri, June 2012

100 Amnesty International interview [names withheld] Maiduguri, June 2012

101 Amnesty International interview [names withheld] Kano, July 2012

102 "Don't kill our children, parents appeal to Borno JTF." Daily Trust. 18 March 2012.

http://sundaytrust.com.ng/index.php?option=com_content&view=article&id=9607:dont-kill-our-children-parents-appeal-to-borno-jtf-&catid=41:latest-news&Itemid=26; (last accessed October 2012).

103 Amnesty International interview with residents of Kwarar Maila, June 2012, and information contained in newspapers, See for example "Nigeria: Parents of Slain Boko Haram Suspects Cry for Justice." Daily Trust, 1 February 2012. <http://allafrica.com/stories/201202010401.html>; (last accessed October 2012).

104 Quoted in Daily Trust Newspaper, 1 February 2012; "Nigeria: Parents of Slain Boko Haram Suspects Cry for Justice"

<http://allafrica.com/stories/201202010401.html>; (last accessed October 2012).

105 The eight people were named by the community as Baba Kolo (63 yrs) (beaten); Mele Mele (30 yrs) (shot); Malam Bukar (32) (shot); Abba Mai Dogo (48) (knife wound in right side by shoulder); Mal Mustapha (45) (shot); Kana M Zakaria (16) (shot); Mallam Yahaya (35) (shot); Bako Gwain Tijani (42) (shot with hands raised over his head).

106 Amnesty International interview [names withheld] Maiduguri, June 2012

107 "Gun battle in Borno as JTF, terrorists clash." The Guardian, Nigeria; 14 February 2012.

http://www.nguardiannews.com/index.php?option=com_content&view=article&id=77014:gun-battle-in-borno-as-jtf-terrorists-clash&catid=1:national&Itemid=559; (last accessed October 2012).

108 Amnesty International interview [names withheld] Maiduguri, June 2012; and telephone interviews July 2011.

109 Amnesty International interview [names withheld], Maiduguri, June 2012

110 Amnesty International interview [names withheld], Maiduguri, June 2012

111 Amnesty International interview [names withheld], Maiduguri, June 2012

112 Amnesty International interview [names withheld], Maiduguri, June 2012

113 "Maiduguri: Army shoots 11, destroys houses - Residents: Over 30 killed." Daily Trust. 11 July 2011.

http://www.dailytrust.com.ng/index.php?option=com_content&view=article&id=22791%3Amaiduguriarmy-shoots-11-destroys-houses-residents-over-30-killed&catid=2%3Alead-stories&Itemid=8&device=xhtml; (last accessed October 2012).

114 Basic Principles on Use of Force, Principle 5(d); UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 16.

115 Amnesty International interview [names withheld], Maiduguri, June 2012

116 Amnesty International interview [name withheld], Maiduguri, June 2012.

117 Amnesty International interview, [name withheld], August 2012. See cover photo of this report.

118 Principle 10, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

119 See Principle 5 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

120 The Constitution of the Federal Republic of Nigeria (1999) recognizes the right to life (Section 33). Article 6 of the ICCPR ratified by Nigeria ratified in October 1993 also recognizes the right to life. Article 4 of the ICCPR, states cannot derogate from their obligations under this provision, even "in time of public emergency which threatens the life of the nation". The African Charter on Human and Peoples' Rights, ratified in June 1983, also includes the right to life (Article 4). In addition, the Charter prohibits torture and other ill-treatment (Article 5) and provides the right to liberty and security of person (Article 6) as does the ICCPR.

121 Art. 34 Body of Principles for the Protection of all persons under any form of Detention or Imprisonment.

122 See e.g. UN Basic Principles on the Use of Force, Principle 23; UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principles 9, 16 and 17.

123 See e.g. Report of the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, UN Doc A/61/311 (5 September 2006), paras 50-54.

124 See e.g. UN Basic Principles on the Use of Force, Principle 23. UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principles 9, 16 and 17

125 Police Act, Form 3, Sudden and unnatural deaths register.

126 In the Southwest for example, the Coroner's Laws are based on the Laws of the Western Region of Nigeria, 1959 Cap 27; in the North, it is based on the Coroner's Law, Cap 27, Laws of Northern Nigeria, 1963.

127 Amnesty International's previous research shows that inquests occasionally take place in Lagos State, where the Coroner's Law was amended in May 2007; (the law now requires that all cases of death in custody should be reported by the police, and investigated by a medical examiner. After the post mortem is concluded, the body must be released for burial). Inquests rarely happen elsewhere. Moreover, the police often do not accept Coroners' findings. In many cases, the police simply leave bodies at the mortuary, where no autopsies are performed or made available to the family of the deceased and thus no investigation takes place. See Amnesty International's 2009 report "Nigeria: Killing at will"

<http://www.amnesty.org/en/library/asset/AFR44/038/2009/en/f09b1c15-77b4-40aa-a608-b3b01bde0fc5/af440382009en.pdf>; (last accessed October 2012).

128 Eyewitness described seeing over 100 people arrested.

129 Amnesty International interview [name withheld], Maiduguri, June 2012.

130 See, e.g., Human Rights Committee, General Comment no 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), paragraph 15.

131 Amnesty International interview with Maiduguri based lawyer [name withheld], interview conducted in Abuja, February 2012.

132 Amnesty International interview [name withheld] Maiduguri, June 2012

133 Amnesty International interview with the Borno state Commissioner of Police, Maiduguri, July 2012.

134 Amnesty International interview [name withheld], Maiduguri, June 2012.

135 See AI No impunity for enforced disappearances: Checklist for effective implementation of the International Convention for the Protection of All Persons from Enforced Disappearance, AI Index IOR 51/006/2011, 9/11/2011, <http://www.amnesty.org/en/library/info/IO51/006/2011/en>; (last accessed October 2012).

136 Amnesty International interview [name withheld], Maiduguri, June 2012.

137 Ruling delivered 4 January 2012, High Court of Justice, Borno state, Suit no. BOHC/MG/CV/243/11.

138 Amnesty International telephone interview [name withheld], Maiduguri, July 2011.

139 Charge number BOHC/MG/CR/008/11.

140 Amnesty International telephone interviews with lawyers for some of the defendants and court records, January 2011.

141 Amnesty International interview [name withheld], Maiduguri, June 2012.

142 "Boko Haram: Elders Seek End to Hostilities." Thisday, 15 June 2012;

<http://www.thisdaylive.com/articles/boko-haram-elders-seek-end-to-hostilities/118020/>; (last accessed October 2012).

143 "YOBE CLASHES: 90,000 PERSONS DISPLACED IN DAMATURU BATTLES." AFP, 28 December 2011.

<http://beegeagle.wordpress.com/2011/12/28/yobe-clashes-90000-persons-displaced-in-damaturu-battles/>; (last accessed October 2012).

144 "Nigeria: The Deserted Areas of Maiduguri - As Thousands Flee Homes." Daily Trust, 7 July 2012; <http://allafrica.com/stories/201207110554.html>; (last accessed October 2012).

145 See also the right to property under article 14 of the African Charter.

146 See also the right to property under article 14 of the African Charter.

147 It is also contrary to Nigerian law: Under the Armed Forces Act, a member of the armed forces who wilfully or maliciously sets fire- (a) to a public building, dwelling house, an office or any structure whatsoever, movable or immovable, whether completed or not, occupied or not; or (b) to any vessel, ship, aircraft, railway track or wagon, or vehicle or thing; ... is guilty of arson and liable, on conviction by a court-martial, to imprisonment for life.

148 "Nigeria: Why Boko Haram Suspects Not Arraigned – Minister" Daily Trust, 29 May 2012, <http://allafrica.com/stories/201205290561.html>.

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- 149 Amnesty International interview with Defence Headquarters Spokesperson, Abuja, July 2012.
- 150 Amnesty International interview [names withheld], Maiduguri, June 2012.
- 151 Amnesty International interview [name withheld], Maiduguri, June 2012.
- 152 Amnesty International interview [name withheld], Maiduguri, June 2012.
- 153 Amnesty International interview [name withheld], Maiduguri, June 2012.
- 154 "Nigeria: Four Killed As Bomb Explodes in Maiduguri." Daily Trust, 23 May 2012. <http://allafrica.com/stories/201205230199.html>; (last accessed October 2012).
- 155 Amnesty International interview [name withheld], Maiduguri, June 2012.
- 156 Amnesty International interview [name withheld], Maiduguri, June 2012.
- 157 Amnesty International interview [name withheld], Maiduguri, July 2012.
- 158 Amnesty International interview [name withheld], Maiduguri, July 2012.
- 159 Amnesty International interviews and telephone interviews with lawyers, detainees, relatives and human rights defenders, in Maiduguri, Abuja, Kano; and news monitoring, 2009-2012.
- 160 Amnesty International interviewed lawyers, detainees, relatives and human rights defenders in Maiduguri, Abuja and Kano; and confirmed by the Inspector General of Police and the Defence Headquarters spokesman in interviews in Abuja in July 2012.
- 161 For example, according to information received by Amnesty International at least 45 people disappeared from prison custody in May 2011. They had been detained at Maiduguri Maximum Security Prison since 2009. Their family members believe their relatives died in the prison. Most of the local lawyers and human rights defenders interviewed by Amnesty International said they believe the men were transferred to other prisons. Amnesty International did not receive any response from the prison authorities when they wrote asking for information as to whereabouts of these prisoners.
- 162 In any event, aspects of the Act appear to be inconsistent with Nigeria's international human rights obligations. See e.g. Amnesty International, Nigeria: Provisions of the 'Prevention of Terrorism Bill 2009' are incompatible with Nigeria's human rights obligations: Briefing to the National Assembly, AI Index AFR 44/005/2010 (27 May 2010) commenting on an earlier similar version of the legislation.
- 163 Emergency Powers (Detention of Persons) Regulations, 2012, S.I. 18 of 2012, section 2.
- 164 These include: the right to liberty and security of person, and the prohibition of arbitrary arrest or detention (African Charter article 6; ICCPR article 9(1)). The Human Rights Committee has held that the prohibition of arbitrary detention cannot be suspended even in states of emergency: see General Comment no 29 on States of Emergency, UN Doc CCPR/C/21/Rev.1/Add.11 (2001) para 11.; the rights of anyone arrested to be told at the time of the arrest the reasons for their arrest; the right of anyone deprived of their liberty to challenge the lawfulness of their detention before a court and to have access to legal counsel for this purpose (see ICCPR articles 9(2) and 9(4); Human Rights Committee Paul Kelly v. Jamaica (8 April 1991) UN Doc CCPR/C/41/D/253/1987 para 5.6; Berry v. Jamaica (7 April 1994) UN Doc CCPR/C/50/D/330/1988 para 11.1; Rafael Marques de Morais v. Angola (29 March 2005) UN Doc CCPR/C/83/D/1128/2002 paras 6.3 and 6.5; Umarova (re Umarov) v. Uzbekistan (19 October 2010) UN Doc CCPR/C/100/D/1449/2006 paras 8.5-8.6. African Charter Article 7(1)(c) and African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, DOC/OS(XXX)247 (2001), articles M(2)(a) and (f), and M(4) and (5). The Human Rights Committee has said that "the right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention, must not be diminished by a State party's decision to derogate from the Covenant" [General Comment no 29 on States of Emergency, UN Doc CCPR/C/21/Rev.1/Add.11 (2001) para 16]; the rights of those arrested or detained on suspicion of involvement in criminal activity (in particular, to be informed of any charges against them promptly and in detail, to be brought promptly before a judicial authority, to have immediate access to legal counsel of their choice and adequate opportunities confidentially to meet and communicate with the lawyer to prepare the defence, and to receive a fair trial without undue delay) (see ICCPR articles 9(3), 14(3)(d), 14(3)(c); UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba (1990); African Charter Articles 7(1)(c) and (d) and Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, articles M(2)(f), M(3), N(1), N(2), N(3), and N(5). The Human Rights Committee has held that the prohibition of arbitrary detention cannot be suspended even in states of emergency: see General Comment no 29 on States of Emergency, UN Doc CCPR/C/21/Rev.1/Add.11(2001) para 11); and the prohibition of torture and other cruel, inhuman or degrading treatment and the right of all detainees to humane treatment and respect for human dignity (including the right to communicate with and receive visits from family and others) (see ICCPR Articles 7, 10(1) and 17; UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, General Assembly resolution 43/173 of 9 December 1988, articles 15, 16 and 19; UN Standard Minimum Rules for the Treatment of Prisoners, Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, rules 37, 44, 92; African Charter articles 5 and 18 and Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, articles M(2)(e) and (g), M(7).).
- 165 ICCPR, article 4 and see Human Rights Committee, General Comment no 29 on States of Emergency, UN Doc CCPR/C/21/Rev.1/Add.11 (2001), especially paragraphs 4, 7-9, 11, 13(b)(d), 14-16.

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- 166 9th annual activity report of the African Commission on Human and Peoples' Rights.
- 167 See UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, principle 7;
- See also e.g. Human Rights Committee, Concluding Observations on Israel UN Doc CCPR/CO/78/ISR (21 August 2003), para 13.
- 168 Amnesty International interviews [names withheld], Maiduguri, Abuja, Kano, February – July 2012.
- 169 Amnesty International interview [name withheld], Maiduguri, June 2012.
- 170 UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment principle 16(1) and (4); Rules 44(3) and 92 of the UN Standard Minimum Rules for the Treatment of Prisoners; Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, articles M(2)(c), and M(6)(c).
- 171 UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principles 16.4 and 15.
- 172 Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, articles M(2)(e) and (g); UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment principle 19; UN Standard Minimum Rules for the Treatment of Prisoners, rule 92.
- 173 Amnesty International interviews [names withheld], Maiduguri, Abuja, Kano, February – July 2012.
- 174 Amnesty International interviews [names withheld], Maiduguri, Abuja, Kano, February – July 2012.
- 175 Amnesty International interviews [names withheld], Maiduguri, Abuja, Kano, February – July 2012.
- 176 Amnesty International interview [names withheld], Maiduguri, June 2012.
- 177 Amnesty International interviews [names withheld], Maiduguri, Abuja, Kano, February - June 2012 and telephone interviews 2011-2012.
- 178 Amnesty International Interview [names withheld], Abuja, May 2012.
- 179 Amnesty International Interview [names withheld], Abuja, May 2012.
- 180 Amnesty International Interview with the Inspector General of Police, Abuja, July 2012.
- 181 Amnesty International interview with former detainees of Giwa barracks and Crack police station and their relatives, [names withheld], Maiduguri, June 2012.
- 182 African Charter, Articles 5 and 16; ICCPR articles 7 and 10; ICESCR article 12; UN Body of Principles for the Protection of all persons under any form of imprisonment or detention, Principle 24; UN Standard Minimum Rules for the Treatment of Prisoners, rules 22-26 and rule 91; African Commission on Human and Peoples' Rights: International Pen, Constitutional Rights Project, Interights on behalf of Ken Saro-Wiwa Jr and Civil Liberties Organisation v Nigeria, Nos 137/94 and others, 12th Activity Report (31 October 1998) para 112; Media Rights Agenda and Constitutional Rights Project v Nigeria, Nos 105/93 and others, 12th Activity Report (31 October 1998) paras 90-91; Huri-Laws v Nigeria, No 225/98, 14th Activity Report (October/November 2000), para 41; Malawi African Association and Others v Mauritania, Nos 54/91 and others, 13th Activity Report (11 May 2000) para 122; Human Rights Committee, *Marinich v Belarus* (16 July 2010), UN Doc CCPR/C/99/D/1502/2006, para 10.3.
- 183 Amnesty International interview with former detainee of Giwa barracks [name withheld], Maiduguri, June 2012.
- 184 Amnesty International interviews [names withheld], Maiduguri, Abuja, Kano, February – July 2012.
- 185 See Amnesty International public statement "Nigeria: Police must comply with court order and immediately release detainee", 6 September 2012, "<http://www.amnesty.org/fr/library/asset/AFR44/041/2012/fr/b9644f81-cc52-4200-b538-3cad7f4e8ccb/afr440412012en.html>"; (last accessed October 2012).
- 186 Amnesty International Interview with lawyer [name withheld], Abuja, February 2012.
- 187 Amnesty International Interview with Defence Headquarters spokesperson, Abuja, July 2012.
- 188 Amnesty International Interview with representatives of the Office of the National Security Adviser, Abuja, July 2012.
- 189 See "Nigeria: Boko Haram - Group Calls for Release of Woman And Her Three Children." Daily Trust, 15 May 2011. <http://allafrica.com/stories/201105170911.html>; (last accessed October 2012).
- 190 Amnesty International interview with former detainees of Giwa barracks [names withheld], Maiduguri, June 2012.
- 191 Amnesty International interview with former detainee of Giwa barracks [name withheld], Maiduguri, June 2012.
- 192 Amnesty International interview with lawyer [name withheld], Maiduguri, June 2012.
- 193 Amnesty International interview with former detainees of Giwa barracks and relatives of people detained at Giwa barracks [names withheld], Maiduguri, June 2012.
- 194 Amnesty International interview with former detainees of Giwa barracks [names withheld], Maiduguri, June 2012.
- 195 Amnesty International interview with former detainees of Giwa barracks [names withheld], Maiduguri, June 2012.
- 196 Amnesty International interview with former detainees of Giwa barracks and relatives of people detained at Giwa barracks [names withheld], Maiduguri, June 2012.
- 197 Amnesty International interview with former detainees of Giwa barracks [names withheld], Maiduguri, June 2012.
- 198 Amnesty International interview with former detainees of Giwa barracks [names withheld], Maiduguri, June 2012.

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- 199 Amnesty International interview with former detainee of Giwa barracks [name withheld], Maiduguri, June 2012.
- 200 Amnesty International interview with former detainees of Giwa barracks [names withheld], Maiduguri, June 2012.
- 201 Amnesty International interview with former detainee of Giwa barracks [name withheld], Maiduguri, June 2012.
- 202 Amnesty International interview with former detainee of Giwa barracks [name withheld], Maiduguri, June 2012.
- 203 Amnesty International requested a meeting with the JTF Commander Borno state in June 2012 in Maiduguri, and wrote in August 2012 expressing concern at reports received by the organisation about the situation at Giwa barracks and requesting further information. No response was received.
- Amnesty International, in a meeting in Abuja in July 2012, asked the Defence Headquarters spokesperson about the use of the pillars at Giwa barracks, but was told that Defence Headquarters did not have information specifically relating to the JTF in Borno and that questions should be directed directly to the JTF unit there.
- 204 Amnesty International delegates visited the 'abattoir' in 2009 and were shown around the police station by the police officers there. They have subsequently interviewed numerous people who have been detained there, who confirm the building remains the same.
- 205 Amnesty International interview with detainees and relatives of SARS, FCT, [names withheld], Abuja, February, May, June 2012 and by telephone.
- 206 Amnesty International interview with detainees and relatives of SARS, FCT, [names withheld], Abuja, February, May, June 2012 and by telephone.
- 207 Amnesty International telephone interview with former detainee of SARS, FCT, [name withheld].
- 208 Convention on the Rights of the Child, 1577 UNTS 3, in force 2 September 1990, ratified by Nigeria 19 April 1991, article 37(b).
- 209 Committee on the Rights of the Child, General Comment no 10 on Children's Rights in Juvenile Justice, UN Doc CRC/C/GC/10 (25 April 2007), paras 28, 80, 81, 83 and 84. See also United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), adopted by General Assembly resolution 40/33 of 29 November 1985, article 13.
- 210 Amnesty International interview with people detained at SARS, FCT, and family members of people detained at SARS, FCT. May 2012.
- 211 Amnesty International interview with people detained at SARS, FCT, and family members of people detained at SARS, FCT. May 2012.
- 212 "Boko Haram Threatens Security Agents Families." Thisday, 31 January 2012. <http://www.thisdaylive.com/articles/boko-haram-threatens-security-agents-families/108215/>; (last accessed October 2012).
- 213 2002 Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2375 UNTS 237, entered into force 22 June 2006.
- 214 See: Nigerian government approves National Committee on Torture" at <http://www.penalreform.org/news/nigerian-government-approves-national-committee-torture/>; (last accessed October 2012).
- 215 "UN expert on counterterrorism urges for international action for victims' rights, their protection and compensation," at <http://www.ohchr.org/EN/NewsEvents/Pages/UNexpertoncounterterrorismurgesforinternationalactionforvictims.aspx>; (last accessed October 2012).
- 216 ICCPR Articles 6 and 9;.
- 217 See, e.g., Human Rights Committee, General Comment no 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add. 13 (26 May 2004), paragraph 8 ["[T]he positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities. There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities."]
- 218 See, e.g., Human Rights Committee, General Comment no 31.
- 219 See UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Report on Framework Principles for Securing the Human Rights of Victims of Terrorism, UN Doc A/HRC/20/14 (7 May 2012), paras 17-45, 68(a) to (i).
- 220 See UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Report on Framework Principles for Securing the Human Rights of Victims of Terrorism, UN Doc A/HRC/20/14 (7 May 2012), paras 49-63, 68(l).
- 221 UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Report on Framework Principles for Securing the Human Rights of Victims of Terrorism, UN Doc A/HRC/20/14 (7 May 2012), paras 34.
- 222 Amnesty International interviews and telephone interviews with lawyers, witnesses and relatives of people killed by Boko Haram or people believed to be Boko Haram [names withheld], and human rights defenders [names withheld], in Maiduguri, Abuja, Kano, 2012.
- 223 Amnesty International interviews with human rights defenders [names withheld], Maiduguri, July 2012.
- 224 Amnesty International interviews and telephone interviews with lawyers, witnesses and relatives of people killed by Boko Haram or people believed to be Boko Haram [names withheld], and human rights defenders [names withheld], in Maiduguri, Abuja, Kano; and news monitoring, 2012.
- 225 Amnesty International telephone interview with relative [name withheld] of person killed by unknown gunmen, suspected to be Boko Haram, July 2012.

226 Some cases have nevertheless reached the courts. In Kano, the police commissioner announced that in June 2012, 159 people were arraigned in court for prosecution, although it is not clear if they were all in connection to crimes related to Boko Haram. Senator Ali Mohammed Ndume, who was also a member of the Presidential Committee in the violence in the North East was arrested on 14 October charged under Nigeria's Terrorism (Prevention) Act 2011. The case is ongoing.

227 Amnesty International interview with the Senior Special Assistant to the Attorney General of the Federation and Minister of Justice, Abuja, July 2012.

228 Amnesty International interview with the Defence Headquarters spokesperson, Abuja, July 2012

229 Amnesty International interview with the Borno state Commissioner of Police, Maiduguri, June 2012.

230 Amnesty International interview with the Inspector General of Police, Abuja, July 2012.

231 Amnesty International interview lawyer practising in Maiduguri [name withheld]; interview conducted in Abuja, February 2012.

232 See e.g. Amnesty International, Nigeria: Provisions of the 'Prevention of Terrorism Bill 2009' are incompatible with Nigeria's human rights obligations: Briefing to the National Assembly, AI Index AFR 44/005/2010 (27 May 2010) commenting on an earlier similar version of the legislation. Many of the key elements of concern remained in the final version.

233 As the Human Rights Committee has said in relation to ICCPR, "The requirement under article 2, paragraph 2, to take steps to give effect to the Covenant rights is unqualified and of immediate effect. A failure to comply with this obligation cannot be justified by reference to political, social, cultural or economic considerations within the state." (see Human Rights Committee, General Comment no 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add. 13 (26 May 2004), paragraph 14.) The failure to properly resource or equip state authorities to fulfil their human rights responsibilities cannot excuse any violations of Nigeria's human rights obligations that may have resulted, but any such lack must be acknowledged and remedied by the government if such violations are not to be repeated in the future.

234 Amnesty International interview with human rights activist [name withheld], Kano, May 2012.

235 Amnesty International interview with human rights activist [name withheld], Maiduguri, July 2012.

236 See for example Amnesty International's 2009 report on police in Nigeria, "Killing at will," (AFR44/038/2009), http://www.amnesty.org.uk/uploads/documents/doc_19990.pdf, (last accessed October 2012); see also Human Rights Watch report, "Everyone's in on the game," <http://www.hrw.org/reports/2010/08/17/everyone-s-game>, (last accessed October 2012); see also Network on Police Reform in Nigeria (NORPIN), "Criminal Force," <http://www.noprin.org/criminal-force-20100519.pdf>, (last accessed October 2012).

237 Despite significant salary increases in 2008 to 28,000N, US\$170, wages are still very low. [The IGP has proposed an increase to 50,000N for the least paid police officer, but the proposal is waiting approval from the president]. And salaries are often paid late. There is a serious shortage of accommodation for police officers with demand for barracks higher than supply. If a police officer dies while working with the NPF, his family is almost immediately evicted from the barracks.

238 <http://beegeagle.wordpress.com/2012/04/30/gunmen-attack-base-of-mopol-38-squadron-in-nasarawa-repelled-mopol-cop-dies-of-his-injuries/>

239 Amnesty International telephone interview [name withheld], May 2012.

240 See "How anti-bomb unit police was blown, Boko Haram, Kaduna" 15 February 2012, <http://saharareporters.com/video/video-how-anti-bomb-unit-police-was-blown-boko-haram-bomb-kaduna-viewers-discretion-seriously->

241 The inadequate training of police officers was identified by the 2006 Presidential Committee on Police Reform as a key reason for their failure to perform their duties. On 27 January 2012, the NPF announced via Twitter that the "IGP declared a state of emergency on all police training institutions, to set up committee to re-position the institutions" (See <https://twitter.com/policeng>, (last accessed October 2012).); and on 15 February 2012 it was announced that the IGP is suspending training programmes for police personnel because of 'poor and outdated facilities.' (See "IGP suspends training programmes for police personnel this year because of poor and outdated facilities." Vanguard newspaper, 15 February 2012 <http://www.vanguardngr.com/2012/02/ig-suspends-training-in-police-over-poor-facilities/>; (last accessed October 2012).

The Minister of Police Affairs indicated on 2 May 2012 that an increase in the size of the police force from 370,000 to 650,000 was planned over the next six years because the number of officers was "grossly inadequate to tackle the rising wave of crime." However, one of the reasons for the poor capacity of the current police force is the huge recruitment to the Nigeria Police Force (NPF) that took place between 2000 and 2005²⁴¹ and the inability of the training institutions, which are overstretched and under-resourced and unable to handle the vast numbers.. The Presidential Committee reported in 2006: "This sudden explosion, as a result of the mass recruitment exercise, turned the colleges more into concentration camps than training institutions." Two years later, the Presidential Committee noted the effects of the recruitment wave on the police: "The nation was therefore saddled with a very large number of unqualified, under-trained and ill-equipped officers and men many of whose suitability to wear the respected uniform of the Force is in doubt... the police are today stuck with this undesirable workforce."

242 Amnesty International interview with the Borno state Commissioner of Police, Maiduguri, June 2012.

243 Amnesty International interview with Inspector General of Police, Abuja, July 2012.

244 2012 Appropriation Bill http://www.budgetoffice.gov.ng/2012_appropriation_act/BILL%20HARMONISED%202012.pdf (last accessed October 2012).

245 In the proposed 2012 budget, N921.91 was allocated for security, however, in the Appropriation Act 2012, the total budget for the ONSA, the Police Formation and Command, Interior and Defence, totals N951 billion.

246 See ONSA / Intelligence Community: 123.5 trillion naira (http://www.budgetoffice.gov.ng/2012_appropriation_act/37.%20Summary_NSA_Security.pdf); Defence: 359.7 trillion naira (http://www.budgetoffice.gov.ng/2012_appropriation_act/11.%20Summary_Defence1_NEW.xls_Security.pdf); Police Formation and Command: 308.5 trillion naira (http://www.budgetoffice.gov.ng/2012_appropriation_act/5.%20Summary_Police%20Formation_security.pdf); Interior: 159.3 trillion naira (http://www.budgetoffice.gov.ng/2012_appropriation_act/20.%20Summary_Interior_NEW_Security.pdf)

247 see "Nigeria: Budget - Security Vote Shoots Up to N1 Trillion" Daily Trust. 15 October 2012. <http://allafrica.com/stories/201210151017.html>; (last accessed October 2012).

248 For example, On 21 May 2012 the Chairman of the Senate Committee on Federal Character and Inter-Governmental Affairs Committee, Senator Dahiru Awaisu Kuta said that the army was needed to "curtail the high level of insecurity in the country... because the police have not been able to achieve much; not because they are completely incapable, but maybe because of their orientation and equipment available to them... They (the army) are capable and more than able to meet all the challenges we are talking about because the way the military is structured now, all the modern equipment we require have been made available to them."

249 Amnesty International interviews with the ONSA and Defence HQ spokesperson in Abuja, July 2012, See also "Boko Haram And Terrorism: Senate Demands Special Courts" The Will, 28 June 2012, <http://www.thenigerianvoice.com/nvnews/93440/1/boko-haram-and-terrorism-senate-demands-special-co.html>; (last accessed October 2012).

250 Ch 2, p8-9 and Chapter 3, p11, White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, May 2012.

251 Amnesty International interview with the Senior Special Assistant to the Attorney General of the Federation and Minister of Justice, Abuja, July 2012.

252 According to chapter 4 of the Strategy for the Implementation of Justice Sector Reforms in Nigeria, published by the Office of the Honourable Attorney General of the Federation and Minister of Justice in August 2011, the MOJ plans to "develop practical guidelines for all prosecutorial agencies and bodies which are consistent with international best practice and constitutional freedoms.", in particular the MOJ intends to develop prosecution policy and guidelines incorporating international best practice for prosecutors in the MOJ and other law enforcement agencies (4.1); develop training manuals and training plans for all prosecutors (4.2); Establish a prosecutor's guidance manual for various specialized areas within the justice sector (4.3); Initiate training of law officers on specific aspects of case tracking and management (4.4); improve the capacity of law enforcement and create networking opportunities between the law enforcement agencies and prosecutors in line with their constitutional mandate (4.7).

253 As specifically regards the Report's recommendation regarding a blanket denial of bail applications to individuals based solely on the character of the charge against them, Amnesty International notes that the manner in which this is stated in the Report's text would be inconsistent with the presumption of innocence required by article 14(2) of the ICCPR, and that the specific proposal would be inconsistent with Article 9(3), which provides in part that "It shall not be the general rule that persons awaiting trial shall be detained in custody". The Human Rights Committee has said that there should be no offences for which pre-trial detention is mandatory. (See e.g. Human Rights Committee, Concluding Observations on Argentina, UN Doc CCPR/C/ARG/CO/4 (31 March 2010), para 16).

254 Amnesty International interview with the Senior Special Assistant to the Attorney General of the Federation and Minister of Justice, Abuja, July 2012.

255 Human Rights Committee, General Comment no 32 on Right to equality before courts and tribunals and to a fair trial, UN Doc CCPR/C/GC/32 (23 August 2007), para 22.

256 Fore example, On 20 February 2012, over 20 people were reported killed when Baga market, Maiduguri, was attacked by gunmen and several bombs were detonated. JAS claimed responsibility two days later in a telephone statement to journalists, in which Abul Qaqa, the group's spokesperson said the attack had been carried out because traders from the market had assisted security forces arresting one of their members, saying "we succeeded in eliminating all those that contributed to the arrest of our member and whoever plans to do same, should prepare to pay the price."

<http://allafrica.com/stories/201202220207.html>. On 29 October 2011 Muslim cleric Sheikh Ali Jana'a was shot dead outside his home in Bulabulin Ngarnam, Maiduguri. He allegedly provided information to security forces about Boko Haram. Sheik Bashir Mustapaha was shot dead inside his house in Maiduguri on 9 October 2010, he had been critical of Boko Haram and was also close to the then Borno State governor Ali Modu Sheriff. One of his students was also killed in the attack. Muslim cleric Ibrahim Birkuti, who had spoken out against Boko Hara, was shot dead on 6 June 2011 outside his house in Biu, Borno state by two men on a motorcycle.

257 Amnesty International interview with Director of Public Prosecution, February 2011, Abuja.

258 Amnesty International interview with lawyer practicing in Maiduguri [name withheld], interviewed in Abuja, February 2012.

259 Amnesty International interview with the Borno state Commissioner of Police, Maiduguri, June 2012.

260 "BOKO HARAM BOMB JAIL, FREE 12 INMATES; POLICE KILL 3 INSURGENTS IN GUNFIGHT." Agence France Presse, 29 March 2012.

<http://beegeagle.wordpress.com/2012/03/29/boko-haram-bomb-jail-free-12-inmates-police-kill-3-insurgents-in-gunfight/>; (last accessed October 2012).

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- 261 Amnesty International interviews with human rights defenders and lawyers [names withheld] in Maiduguri, June 2012.
- 262 Strategy for the Implementation of Justice Sector Reforms in Nigeria, published by the Office of the Honourable Attorney General of the Federation and Minister of Justice in August 2011.
- 263 "Jonathan: Boko Haram members infiltrate my government." Daily Trust, 9 January 2012. <http://www.dailytrust.com.ng/index.php/other-sections/lead-stories/151886-jonathan-boko-haram-members-infiltrate-my-government>; (last accessed October 2012).
- 264 See UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Report on Framework Principles for Securing the Human Rights of Victims of Terrorism, UN Doc A/HRC/20/14 (7 May 2012), para 36.
- 265 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly Resolution 60/147 of 16 December 2005, in particular Article 18; for states' obligations in relation to reparations for human rights violations generally see Amnesty International International Criminal Court: Updated Checklist for Effective Implementation, AI Index IOR 53/009/2010 (May 2010), at p38.
- 266 See UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Report on Framework Principles for Securing the Human Rights of Victims of Terrorism, UN Doc A/HRC/20/14 (7 May 2012).
- 267 See Amnesty International, Security and Human Rights: Counter-Terrorism and the United Nations, AI Index IOR 40/019/2008 (September 2008), ANNEX I.
- 268 White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, May 2012, p14, para 50 (7)).
- 269 White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, May 2012, p17, para 69.
- 270 Amnesty International interviews with victims [names withheld], Maiduguri, June 2012.
- 271 Amnesty International interview, [name withheld], Abuja, May 2012.
- 272 Vienna Convention on the Law of Treaties, 1155 UNTS 331, in force 27 January 1980, article 18, which Nigeria ratified 31 Jul 1969. Nigeria has not enacted specific legislation to incorporate its obligations under any of the treaties into national law. As a matter of international law, however, the treaties create legal obligations that are binding upon Nigeria whether or not their provisions have been incorporated into domestic law, see Vienna Convention, article 27.
- 273 African Charter, OAU Doc. CAB/LEG/67/3 rev. 5, articles 4 to 7.
- 274 International Covenant on Civil and Political Rights (ICCPR), 999 UNTS 171, in force 23 March 1976, articles 6, 7, 9, 14, 26.
- 275 ICCPR, article 4(2) ["No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision"]; Human Rights Committee, General Comment no 29 on States of Emergency, UN Doc CCPR/C/21/Rev.1/Add.11 (2001), para 11, 16. See also Human Rights Committee, General Comment no 32 on Right to equality before courts and tribunals and to a fair trial, UN Doc CCPR/C/GC/32 (23 August 2007), para 6 ["Deviating from fundamental principles of fair trial, including the presumption of innocence, is prohibited at all times"].
- 276 Human Rights Committee, General Comment no 31, paras 15 to 20.
- 277 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, articles 2, 4 to 7, 12 to 14, 16.
- 278 International Convention for the Protection of All Persons from Enforced Disappearance, UN Doc A/61/488., articles 1, 2, 4, 6, 7, 11, 17-22.
- 279 Convention on the Rights of the Child, 1577 UNTS 3, in force 2 September 1990.
- 280 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict, 2173 UNTS 222, in force 12 February 2002.
- 281 Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, entered into force 1 July 2002.
- 282 Rome Statute of the International Criminal Court, Article 86.
- 283 See ICC Office of the Prosecutor, Report on Preliminary Examination Activities, 13 December 2011, p12-13; further information is available at <http://www.icc-cpi.int/menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/comm%20and%20ref/nigeria/nigeria?lan=en-GB>.
- 284 See, e.g., International Court of Justice, Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Judgment of 30 November 2010, paras 66 and 67.
- 285 Standard Minimum Rules for the Treatment of Prisoners;; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Basic Principles on the Role of Lawyers; Rules for the Protection of Juveniles Deprived of their Liberty; Standard Minimum Rules for the Administration of Juvenile Justice; Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; Code of Conduct for Law Enforcement Officials; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. See also the Framework Principles for Securing the Human Rights of Victims of Terrorism, proposed by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, UN Doc A/HRC/20/14 (7 May 2012).

286 International Covenant on Economic, Social and Cultural Rights, 993 UNTS 3, entry into force 3 January 1976, article 11. See also Committee on Economic, Social and Cultural Rights, General Comment no 7 on the right to adequate housing (Art.11.1): forced evictions (20 May 1997).

287 ICCPR, article 17.

288 African Commission on Human and Peoples' Rights, *The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria*, Communication No. 155/96 (30th Ordinary Session, held in Banjul, The Gambia from 13th to 27th October 2001), paras 59-63.



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NIGERIA: TRAPPED IN THE CYCLE OF VIOLENCE

Since 2009, acts of violence by the Islamist armed group known as Boko Haram have been carried out across northern and central Nigeria with increasing sophistication and deadliness. Nigeria's security forces have perpetrated serious human rights violations in their response – including enforced disappearance, extrajudicial executions, house burning and unlawful detention. At the same time, the Nigerian government has failed to adequately prevent or investigate the attacks or to bring perpetrators to justice.

This cycle of attacks and counter-attacks has been marked by unlawful violence on both sides, with devastating consequences for the human rights of the people trapped in the middle. They live in considerable fear and insecurity, unprotected from attacks by Boko Haram and facing human rights violations at the hands of the very state security forces mandated with their protection.

This report presents research gathered by Amnesty International during visits to Nigeria between February and July 2012. It details human rights abuses and violations in northern and central Nigeria and includes testimonies from survivors and victims' families.

The report sets out key recommendations for the Nigerian government to ensure that human rights violations are not perpetrated by its security forces in the name of national security. It urges the government of Nigeria to fulfil its duty to take measures to prevent and protect civilians from attack and to investigate all such crimes, and to bring to justice those responsible.

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Index: AFR 44/043/2012
November 2012

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