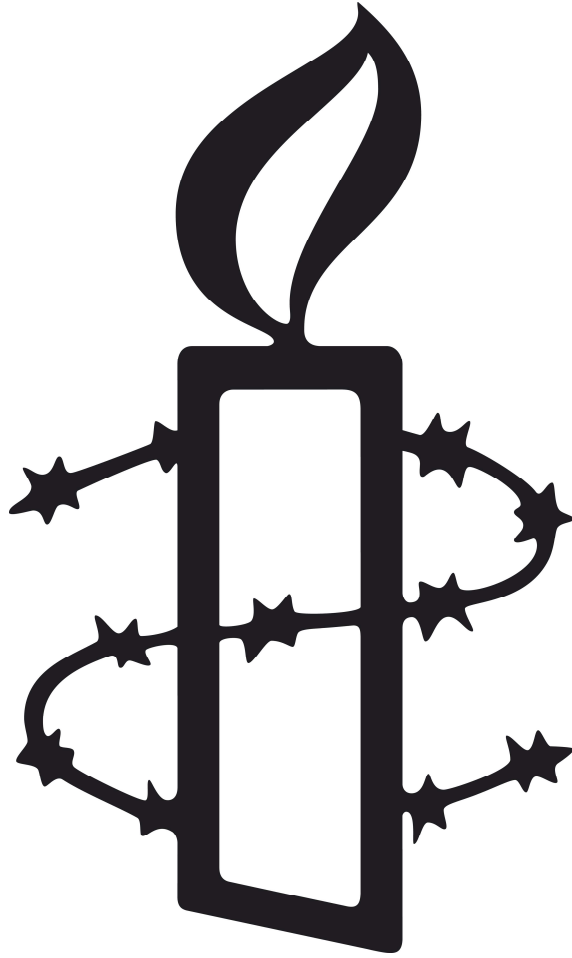


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COMMITTEE

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AMNESTY
INTERNATIONAL



Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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CONTENTS

1. INTRODUCTION	5
2. THE NATIONAL HUMAN RIGHTS FRAMEWORK	5
RECOMMENDATIONS	5
3. THE NATIONAL HUMAN RIGHTS COMMISSION	6
RECOMMENDATIONS	6
4. DISCRIMINATION AGAINST LGBTI PERSONS (ART. 2)	6
RECOMMENDATIONS	7
5. RIGHT TO LIFE IN THE CONTEXT OF THE COUNTER-INSURGENCY EFFORTS IN THE NORTH EAST (ART. 6)	8
RECOMMENDATIONS	8
6. TORTURE AND OTHER ILL-TREATMENT (ARTS.7 & 14)	9
RECOMMENDATIONS	9
7. FREEDOM OF EXPRESSION AND RIGHT TO FREEDOM OF ASSOCIATION (ART. 19 & 22)	10
RECOMMENDATIONS	11
8. VIOLATION OF CHILDREN’S RIGHTS (ART.24 & 7)	11
RECOMMENDATIONS	12
9. DEATH PENALTY	12
RECOMMENDATION	12

1. INTRODUCTION

This submission has been prepared in advance of the United Nations (UN) Human Rights Committee's review of the second periodic report of Nigeria. In July the Human Rights Committee will review the human rights situation in the country in the absence of a report 23 years after its first review. In this submission, Amnesty International sets out its concerns in relation to the national human rights frameworks, discrimination against LGBT individuals, extra-judicial killings in the context of the counter-insurgency efforts in the north-east, torture and other ill-treatment, freedom of expression and right to freedom of association, violation of children's rights and several others, that Amnesty International has documented. This is by no means an exhaustive account of our organization's human rights concerns.¹

2. THE NATIONAL HUMAN RIGHTS FRAMEWORK

The 1999 Constitution of the Federal Republic of Nigeria makes provision for civil and political rights under 'Fundamental Rights' in Chapter 4.² These fundamental rights include the rights to life, personal liberty, fair trial, freedom of thought, conscience and religion, among many others. By the provision of section 46 of the 1999 Constitution, any person who alleges that any of the provisions of Chapter 4 has been, is being or likely to be contravened in any state in relation to him may apply to a High Court in that state for redress.

Beyond the human rights provisions in the Constitution, Nigeria has enacted some human rights laws such as: Child Rights Act, Trafficking in Persons (Prohibition) Enforcement and Administration Act, Discrimination Against Persons with Disabilities (Prohibition) Act, Anti-Torture Act, Universal Basic Education Act and Violence Against Persons (Prohibition) Act and HIV/AIDS (Anti-Discrimination) Act. Nigeria also domesticated the African Charter on Human and Peoples' Rights, through the African Charter on Human and Peoples' Rights (Ratification and Enforcement Act). These laws cover a wide range of human rights issues that are provided in the ICCPR. Thus, the ICCPR places a second level of obligation on Nigeria, in addition to its human rights laws on various subjects.

Amnesty International is nonetheless concerned that Nigeria is yet to ratify some other important international treaties like the two Optional Protocols to the ICCPR, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of children in armed conflict, among others.

RECOMMENDATIONS

Amnesty International recommends that the Nigerian authorities:

- Ratify the two Optional Protocols to the ICCPR and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of children in armed conflict, among others.

¹ Amnesty International Report 2017/18, *The State of the World's Human Rights* (Index: POL 10/6700/2018)

² <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

3. THE NATIONAL HUMAN RIGHTS COMMISSION

Nigeria's National Human Rights Commission (NHRC) was established by the National Human Rights Commission (NHRC) Act, 1995, as amended by the NHRC Act, 2010, in line with the resolution of the United Nations General Assembly which enjoins all member States to establish national human rights institutions for the promotion and protection of human rights.³

The Commission serves as an extra-judicial mechanism for the enhancement of the enjoyment of human rights. Its establishment is aimed at creating an enabling environment for the promotion, protection and enforcement of human rights. It also provides avenues for public enlightenment, research and dialogue in order to raise awareness on human rights issues.

Amnesty International is however deeply concerned that the NHRC's capacity to discharge its functions is limited by inadequate resources.⁴

RECOMMENDATIONS

Amnesty International recommends that the Nigerian authorities:

- Put in place measures to guarantee that the NHRC can perform its functions with adequate resources.

4. DISCRIMINATION AGAINST LGBTI PERSONS (ART. 2)

Since the passage of the Same-Sex Marriage (Prohibition) Act 2014⁵, arrests and detention of young people based on their actual or perceived sexual orientation and gender identity have escalated in Nigeria.⁶ The Act provides for a ten-year prison sentence for anyone who supports, meets with, or forms a group advocating for the human rights for LGBTI people. It criminalizes freedom of speech, association, and assembly and the activities of many civil society organizations. The Act has led to an increase in extortion and violence against LGBTI people and has imposed restrictions on NGOs providing essential services to them.⁷ There has also been a rise in other violations. The Police regularly raid public places, including birthday parties and NGO-organized events to arrest participants

³ <https://www.nigeriainights.gov.ng/>

⁴ <https://dailypost.ng/2018/12/13/human-rights-commission-opens-offices-13-states-explains/>

⁵ <https://www.lawnigeria.com/LawsoftheFederation/Same-Sex-Marriage-Prohibition-Act-2014.html>

⁶ Police arrest 57 suspected gays in Lagos, Punch 28 August 2018. <https://punchng.com/police-arrest-57-suspected-gays-in-lagos/>

⁷ Amnesty International Report 2017/18 <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>

on the suspicion that they are “homosexuals”.⁸ Blackmail and extortion against LGBTI individuals from state and non-state actors are common.⁹

These arrests are often followed by orchestrated media trials where the victims are paraded in the media and labelled “homosexuals, who were undergoing initiation ceremony into a homosexual club”.¹⁰ For Instance, in August 2018, 57 persons suspected to be “homosexuals” were paraded before national television in order to name and shame them.¹¹

These arrests are frequent and regular¹². They show the extent of the problem involving the Nigerian Police who target persons based on their actual or perceived sexual orientation and/or gender identity.¹³ Unofficial figures provide that in the last three years at least 2,500 described by the Police as “homosexuals” have been arrested for violating the Same-Sex Marriage (Prohibition) Act.¹⁴

The Nigerian government has an obligation to respect, protect and promote the human rights of its population without distinction of any kind, including sexual orientation or gender identity.

RECOMMENDATIONS

Amnesty International recommends that the Nigerian authorities:

- Repeal immediately the Same Sex Marriage (Prohibition) Act 2014 (SSPMA);
- Review and reform all other legislation, such as the criminal and penal code, which can result in arrest, detention, prosecution and punishment of people solely because of their actual or imputed sexual orientation or gender identity. This includes laws explicitly criminalizing consensual sexual conduct between people of the same sex or with transgender individuals and public order legislation used as a pretext for prosecuting and punishing people solely for their sexual orientation or gender identity;
- Legislate to prohibit and eliminate discrimination on the grounds of sexual orientation, gender identity and sex characteristics at every stage of the administration of justice.

⁸ <https://punchng.com/41-suspected-homosexuals-arrested-at-bauchi-birthday-party/>

⁹ <https://theinitiativeforequalrights.org/wp-content/uploads/2018/12/2018-Human-Rights-Report.pdf>

¹⁰ <https://www.vanguardngr.com/2018/08/57-suspected-homosexuals-arrested-during-initiation-in-lagos/>

¹¹ <https://www.thecable.ng/video-police-parade-57-homosexuals-arrested-lagos>

¹² <https://www.amnesty.org/en/press-releases/2014/01/nigeria-halt-homophobic-witch-hunt-under-oppressive-new-law/>

¹³

¹⁴ <https://www.amnesty.org/en/press-releases/2014/01/nigeria-halt-homophobic-witch-hunt-under-oppressive-new-law/>

5. RIGHT TO LIFE IN THE CONTEXT OF THE COUNTER-INSURGENCY EFFORTS IN THE NORTH EAST (ART. 6)

Boko Haram has killed thousands of civilians in the north east of the country. For example, more than 4,000 civilians were killed by Boko Haram in attacks in 2014 alone.¹⁵ In its 2017/2018 Annual Report, Amnesty International stated that the armed group continued to carry out attacks, resulting in hundreds of deaths. It carried out at least 65 attacks causing 411 civilian deaths and abducted at least 73 people.¹⁶ Amnesty International's research has also shown that inadequate security and alleged withdrawal of troops have sometimes led to the death of civilians in the hands of Boko Haram,¹⁷ while impunity and non-accountability have continued to fuel the conflict.¹⁸

In the course of security operations against Boko Haram, there have been serious human rights violations. Previous Amnesty International research has documented that in the course of security operations against Boko Haram, Nigerian military forces have extrajudicially executed more than 1,200 people; they have arbitrarily arrested at least 20,000 people, mostly young men and boys; and have committed countless acts of torture. In the same vein, thousands have become victims of enforced disappearance while many have been killed in military detention through starvation, extreme overcrowding and denial of medical assistance.¹⁹

RECOMMENDATIONS

Amnesty International recommends that the Nigerian authorities:

- take immediate steps to end human rights and humanitarian law violations by the Military.
- conduct an immediate, independent, impartial and thorough investigation into the crimes under international law and other serious violations of human rights and international humanitarian law by all sides in north-eastern Nigeria, and bring those reasonably suspected of criminal responsibility, including through command responsibility, to justice in fair trials not subject to the death penalty.
- publicly condemn such acts, including reports of arbitrary arrests, incommunicado detention, enforced disappearances, torture and other ill-treatment, and extrajudicial executions carried out by the Nigerian military.
- Immediately release all persons arbitrarily detained during the conflict in north east Nigeria except where there is sufficient evidence to investigate and prosecute them for internationally recognisable crimes.
- Deliver justice for the many victims of human rights abuses and crimes allegedly committed by Boko Haram members by ensuring fair trials are conducted with international safeguards for protection of victims and witnesses.

¹⁵ <https://www.amnesty.org/en/latest/news/2014/08/nigeria-gruesome-footage-implicates-military-war-crimes/> (accessed on 14 May 2019)

¹⁶ <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>

¹⁷ <https://www.amnesty.org/en/latest/news/2019/02/nigeria-deadliest-boko-haram-attack-on-rann-leaves-at-least-60-people-murdered/>

¹⁸ <https://www.amnesty.org/download/Documents/AFR4494812018ENGLISH.PDF>

¹⁹ <https://www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF>

6. TORTURE AND OTHER ILL-TREATMENT (ARTS.7 & 14)

Recent Amnesty International research indicate that police and military personnel continue to routinely use torture and other ill-treatment to extract information and “confessions”, and to punish detainees. A wide variety of methods of torture is used by security forces in Nigeria in violation of the absolute prohibition against torture and other ill-treatment. Some of the most common ones documented by Amnesty International include beatings, hanging, rape and sexual violence, extraction of teeth, suspending detainees by their feet, starvation, forcing detainees to sit on sharp objects etc.²⁰

In contravention of national and international law, information extracted by torture and other ill-treatment is routinely accepted as evidence in court. The Nigerian Constitution prohibits torture and other inhuman or degrading treatment.²¹ In December 2017, President Buhari signed the Anti-Torture Act, which penalizes acts of torture and other cruel, inhuman and degrading treatment. While the Act prescribes a punishment of up to 25 years’ imprisonment for torture offenders, it makes no provisions for the rehabilitation of victims and legal assistance to victims is limited to support for making complaints.²² Security officials are rarely held accountable for failures to follow due process or for perpetrating human rights violations such as torture.

RECOMMENDATIONS

Amnesty International recommends that the Nigerian authorities:

- Ensure that the Anti-Torture Act is implemented fully and effectively across Nigeria, and issue a clear public directive to all members of the police, military and other security forces, that torture and other ill-treatment will not be tolerated under any circumstances;
- Ensure that statements and other information or materials obtained through torture and other ill-treatment are not used as evidence in courts. And include such prohibitions in professional training programmes for police, soldiers, judges, prosecutors and lawyers;
- Ensure that all detainees in military and police custody have immediate and unhindered access to families, lawyers and medical care.
- Grant NHRC monitors, the ICRC and human rights defenders unhindered access to all detention facilities across Nigeria.
- Launch a thorough, independent and impartial investigation into allegations of torture by police and military personnel, and where there is sufficient evidence, bring those suspected of criminal responsibility for such ill treatment to justice in fair trials not subject to the death penalty;
- Provide comprehensive reparation – including compensation and whatever care is necessary to encourage rehabilitation – to anyone who experiences torture or other ill-treatment.

²⁰ <https://www.amnesty.org/en/documents/AFR44/011/2014/en/>

²¹ Section 34(1) of the 1999 Constitution of the Federal Republic of Nigeria

²² Section 9, Anti-Torture Act 2017.

7. FREEDOM OF EXPRESSION AND RIGHT TO FREEDOM OF ASSOCIATION (ART. 19 & 22)

The enjoyment of the right to freedom of expression in Nigeria, particularly amongst journalists, media personnel, and human rights activists, is under threat, despite the right being guaranteed in the 1999 constitution²³. Regularly, police and security agents have undermined and violated the rights of persons to freedom of expression.²⁴ Across Nigeria, people, especially journalists and bloggers, are being arrested merely for expressing critical opinions through traditional and social media.²⁵

For example, on 21 July 2016, Abiri Jones, the editor and publisher of the weekly source newspaper in Bayelsa State, Nigeria, was arrested by DSS in Nigeria for allegedly having links to a rebel sect in the Niger Delta regions of Nigeria. He was held in confinement for two years without trial. Shortly after his release, Abiri Jones was again picked up²⁶ on 30 March 2019 by unidentified armed men who threatened that they would shoot at him if he ran away, and he was further charged with terrorism, economic sabotage and fraud.²⁷ The journalist strongly denies these allegations, contending that he is being targeted because of his media work that puts a spotlight on the controversial conducts of oil companies and the Nigerian government in the Niger Delta.

The most recent attacks on freedom of expression in Nigeria have been perpetrated by the Federal SARS, a unit of the Nigerian police force, who carry out arrests in a bid to intimidate and harass people and compel them to refrain from expressing critical opinions.²⁸

Samuel Ogundipe, a journalist with Premium Times in Abuja, was arrested by the Federal SARS and subsequently prosecuted for allegedly refusing to disclose the source of a story he published about a police inspector general, Ibrahim Idris.²⁹

In the wake of all the attacks and intimidation of journalists and media personnel, In February 2019, Amnesty International Nigeria launched a campaign aimed at protecting the rights of journalists to carry out their work without intimidation or harassment.³⁰

The government has also attempted to gag NGOs and other civil society organisations. In 2017, the lower house of Nigeria's National Assembly, the House of Representatives, introduced the Non-Governmental Organizations Regulatory Commission of Nigeria (Establishment) Bill (the NGO bill)³¹. The bill, intended among other things to ensure the transparency and accountability of NGOs, imposes unnecessary and disproportionate restrictions on associations and would allow the government to exert undue influence and control over NGOs, including by determining who is able to form an association and to regulate some aspects of their operation.

²³ S 39(1) 1991 constitution FRN <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm> (accessed on 16 May 2019)

²⁴ <https://www.dailytrust.com.ng/two-nigerian-journalists-killed-12-assaulted-in-2017.html>

²⁵ <https://www.amnesty.org/en/latest/news/2016/09/nigeria-crackdown-and-shrinking-civic-space/>

²⁶ <https://www.aljazeera.com/news/2019/03/nigerian-journalist-jones-abiri-arrested-armed-men-190331154500014.html> (accessed on 16 May 2019)

²⁷ <https://www.premiumtimesng.com/news/top-news/331070-just-in-nigeria-charges-journalist-jones-abiri-for-terrorism.html>

²⁸ <https://www.amnesty.org/en/latest/news/2019/02/nigeria-police-must-release-arewametoo-activist-maryam-awaisu-immediately/>;

<https://www.amnesty.org/en/latest/news/2018/08/nigeria-sars-overhaul-is-positive-step-but-reforms-must-be-robust/>

²⁹ <https://www.hrw.org/world-report/2019/country-chapters/nigeria> (accessed on 16 May 2019)

³⁰ <https://www.amnesty.org/en/get-involved/take-action/nigeria-free-the-press-manifesto/> (accessed on 16 May 2019)

³¹ <http://nass.gov.ng/document/download/1321>

RECOMMENDATIONS

Amnesty International recommends that the Nigerian authorities:

- Take effective measures to end the practice of arbitrary arrests and prosecutions, harassments and threats against journalists, bloggers and others for exercising their right to freedom of expression;
- Amend the Cyber Crime Act to bring it in line with international human rights standards on the rights to privacy, freedom of expression and media freedom.

8. VIOLATION OF CHILDREN'S RIGHTS (ART.24 & 7)

Children suffer gross human rights abuses and very little interventions and efforts are made on the part of the government to address this. Children are targets in the Boko Haram insurgency ravaging the North East of Nigeria. They are being used as suicide bombers, child soldiers and sex slaves by the insurgents.³² Children also continue to suffer in IDP camps.³³ Recently, the Civilian Joint Task Force released more than 800 child soldiers.³⁴ In April 2014, at least 276 schoolgirls were kidnapped in the Chibok town of Borno State.³⁵ On 6 May, 82 of them were released by Boko Haram fighters in an exchange deal; 113 girls remained in captivity.³⁶ More recently, in February 2018, 110 school girls were kidnapped from their dormitory in Dapchi, Yobe State. Although 104 of them have been released, one of them, Leah Sharibu, is still held in captivity for her refusal to convert to Islam and 5 were said to have died in the custody of the abductors³⁷.

As a result of the instability flowing from the fight against Boko Haram, children are forced to stay in Internally Displaced Persons (IDPs) camps. Their plight in these camps is deplorable; there is little access to food, water and education.³⁸ With little or no government-led interventions, children (especially those who are orphaned by the insurgency) are vulnerable to sexual harassment³⁹ and child labour.

In 2013, the government approved a national action plan and a national strategy for the elimination of child labour. Despite this action plan, children are not adequately protected due to poor law enforcement. Children continue to work in the agricultural sector and in mines where they are exposed to hazardous conditions. Boys work as labourers on farms and for small businesses. Girls are made to work as domestic helps, street peddlers, and commercial sex workers. In 2016, there were reports that near Lafia, in Nasarawa State, children broke up large pieces of rocks, stacked them into piles, and carried them on their heads. Similar occurrences were also reported in Bauchi State and the Federal Capital Territory.⁴⁰

Female Genital Mutilation (FGM) is also a violation still prevalent in Nigeria. Many girls undergo FGM as infants, with 16% of girls currently aged 0 to 14 undergoing FGM before their first birthday, and most women (82%) aged 15 to 49 undergoing FGM before the age of five.⁴¹ Although the Violence against Persons (Prohibition) Act (VAAP Act), which seeks to curtail the practice, was signed into law in 2015, FGM is still practiced in the South-western region

³² <https://www.amnesty.org/download/Documents/AFR4494812018ENGLISH.PDF>

³³ <https://www.amnesty.org/download/Documents/AFR4484152018ENGLISH.PDF>

³⁴ <https://www.channelstv.com/2019/05/10/894-child-soldiers-released-from-civilian-jtf-in-maiduguri-unicef/>

³⁵ <https://www.aljazeera.com/news/2019/04/nigeria-chibok-school-girls-years-112-missing-190413192517739.html> (accessed on 14 May 2016)

³⁶ <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>

³⁷ <https://www.bbc.com/news/world-africa-43535872> (accessed on 14 May 2019)

³⁸ <https://www.amnesty.org/en/documents/afr44/8266/2018/en/>

³⁹ <https://www.amnesty.org/en/latest/news/2018/05/nigeria-starving-women-raped-by-soldiers-and-militia-who-claim-to-be-rescuing-them/> (accessed on 14 May 2019)

⁴⁰ <https://www.state.gov/documents/organization/265500.pdf> (accessed on 14 May 2016)

⁴¹ National Population Commission [Nigeria] and ICF International (2014) Nigeria Demographic and Health Survey 2013. Abuja and Rockville, Maryland: NPC and ICF International. Available at <https://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>.

of Nigeria.⁴² The VAPP Act only covers the FCT and must be domesticated in all other states for it to be applicable in them. Currently, there are less than 5 states who have domesticated it.⁴³ Also, the Child Rights Act which seeks to protect the rights of children in Nigeria was enacted in 2003 but is yet to be domesticated in all States.⁴⁴

RECOMMENDATIONS

Amnesty International recommends that the Nigerian authorities:

- Appoint a relevant Ministry or government agency to oversee the rights and welfare of children.
- Urgently put in place measures to concretely implement the national action plan and strategies for the elimination of child labour.
- Prevail on state governments who are yet to do so, to domesticate the Child's Right Act and the VAPP Act and ensure effective implementation across the country.

9. DEATH PENALTY

The death penalty remains a legal sanction in Nigeria and continues to be imposed throughout the country. With more than 2,000 people on death row, Nigeria had the highest death row population in sub-Saharan Africa at the end of 2018.⁴⁵

Amnesty International opposes the death penalty in all cases without exception - regardless of who is accused, the nature or circumstances of the crime, guilt or innocence or method of execution. Amnesty International holds that the death penalty breaches human rights, in particular the right to life and the right to live free from torture or cruel, inhuman or degrading treatment or punishment, as guaranteed in the Universal Declaration of Human Rights.⁴⁶

Global support for abolishing the death penalty is rising. By the end of 2018, 106 countries had abolished the death penalty in law for all crimes.⁴⁷ There are credible arguments for the abolition of the death penalty. There is no evidence that the death penalty is any more effective in reducing crime than life imprisonment. Death Penalty is often used within skewed justice systems - in cases where people are convicted in grossly unfair trials, on the basis of torture-tainted evidence and with inadequate legal representation. Death penalty is the ultimate, irrevocable punishment and the risk of executing an innocent person can never be eliminated. The weight of the death penalty is disproportionately carried by those with less advantaged socio-economic backgrounds or belonging to a racial, ethnic or religious minority.⁴⁸

RECOMMENDATION

Amnesty International recommends that the Nigerian authorities:

- Establish an official moratorium on executions with a view to abolishing the death penalty;
- Commute all death sentences to terms of imprisonment;
- Abolish the death penalty for all crimes;

⁴² <https://www.state.gov/documents/organization/265500.pdf> (accessed on 14 May 2016)

⁴³ <https://www.thenewsnigeria.com.ng/2019/03/maternal-health-ipas-wants-all-states-to-domesticate-vapp-act/>

⁴⁴ The Guardian, *The Nigerian Child and National Policies*, <https://guardian.ng/opinion/the-nigerian-child-and-national-policies/>

⁴⁵ Amnesty International *Global Report, Death Sentences and Executions 2018* (Index: ACT 50/9870/2019)

⁴⁶ Amnesty International, *Death Penalty*, <https://www.amnesty.org/en/what-we-do/death-penalty/>

⁴⁷ Amnesty International, *Death penalty 2018: Dramatic fall in global executions*, <https://www.amnesty.org/en/latest/news/2019/04/death-penalty-dramatic-fall-in-global-execution/>

⁴⁸ Amnesty International, *Death Penalty*, <https://www.amnesty.org/en/what-we-do/death-penalty/>

- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

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NIGERIA

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

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