

# **NIGERIA**

## **SHADOW REPORT TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

**62<sup>ND</sup> ORDINARY SESSION:**

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# INTRODUCTION

At its 62<sup>nd</sup> Ordinary Session to be held in Nouakchott, Mauritania, from 25 April to 9 May, the Africa Commission on Human and Peoples' Rights (ACHPR) will consider Nigeria's 6th Periodic Report on the implementation of the African Charter on Human and Peoples' Rights and its Protocol on the Rights of Women in Africa. Amnesty International welcomes Nigeria's submission of the periodic report and submits this shadow report to aid the ACHPR in its review of the state party report.

This shadow report is submitted in accordance with Rules 74 and 75 of ACHPR's Rules of Procedure. It contains information about the human right situation in Nigeria and includes proposed recommendations which the ACHPR may wish to put forward to the government of Nigeria when considering the periodic report. The report covers several areas of human rights concerns including: violations in the context of the ongoing armed conflict and communal violence, torture, extrajudicial executions, death penalty, forced evictions, oil pollution and the rights of lesbian, gay, bisexual, transgender and intersex people.

# KEY CONCERNS ON NON- IMPLEMENTATION OF 2015 CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

## RATIFICATION/DOMESTICATION OF INTERNATIONAL INSTRUMENTS AND ENACTMENT OF DOMESTIC LAWS

In its 2015 Concluding Observations and Recommendations on Nigeria's 5<sup>th</sup> Periodic Report, the ACHPR recommended that Nigeria should expedite the processes for the ratification of seven outstanding regional and international human rights instruments.<sup>1</sup> These are: African Charter on the Values and Principles of Public Service and Administration; Protocol on the Statute of the African Court of Justice and Human Rights; Protocol to the OAU Convention on

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<sup>1</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 93. The outstanding treaties

the Prevention and Combating of Terrorism; Optional Protocol to the International Covenant on Civil and Political Rights; Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty; The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The ACHPR also called upon the government to “expedite the process initiated in order to make the declaration under Article 34(6) of the Protocol on the African Court on Human and Peoples’ Rights to allow individuals and NGOs to seize the African Court directly.”

The government in its 6<sup>th</sup> Periodic Report states that a National Inter-Ministerial Working Group is ‘expediting action on the processes for the ratification of outstanding regional and international human rights instruments’. While this is a welcome development, Amnesty International is concerned that limited progress has been made during the reporting period. The ACHPR has already noted, in its 2015 Concluding Observations and Recommendations, that “prolonged procedures for domestication of international law under [Nigeria’s] legal architecture”<sup>2</sup> and the “lack of definitive estimated timelines for the conclusion of a number of legislative, policy and institutional reform processes”<sup>3</sup> remain major areas of concern for improving the promotion and protection of human rights in the country. It remains unclear from the 6<sup>th</sup> Periodic Report when the Inter-Ministerial Working Group started operations and which of the outstanding instruments are currently being considered. The government also provides no definitive timeline or estimate towards coming up with necessary instruments for ratification and domestication of these instruments.

On the other hand, Amnesty International welcomes the signing into law of the Anti-Torture Act in December 2017 by President Buhari. The Act penalizes torture and other cruel, inhuman and degrading treatment, prescribes a punishment of up to 25 years’ imprisonment for perpetrators of torture and introduces several safeguards against torture. However, Amnesty International is concerned that the Act does not contain provisions for the rehabilitation of victims and provides for limited legal assistance to victims (i.e. support only for making complaints).

In its 2015 Concluding Observations, the ACHPR further recommended that the Nigerian government ensures that the Violence against Women Bill is passed and that cases of violence are properly investigated and prosecuted.<sup>4</sup> While the bill has been enacted, Amnesty International is concerned that the law is only applicable in the Federal Capital Territory (FCT) territory and that 35 states are yet to enact similar state laws.<sup>5</sup> Moreover, the Act needs to be fully and effectively implemented as Amnesty International continues to document cases of violence against women, including by law enforcement officials, that have not been effectively investigated and prosecuted by the authorities.

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<sup>2</sup> African Commission on Human and Peoples’ Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 60

<sup>3</sup> African Commission on Human and Peoples’ Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 62

<sup>4</sup> 115, 116, 119

<sup>5</sup> Ekiti State passed a Gender-Based Violence (Prohibition) Law in 2011

## RIGHT TO SECURITY OF PERSON/ RIGHT TO LIFE AND THE DEATH PENALTY

In its 2015 Concluding Observations, the ACHPR noted with concern that Nigeria's 5<sup>th</sup> Periodic Report "did not cover the highly disturbing and important issues concerning the security situation in the North-East Region"<sup>6</sup> as well as "steps taken to investigate and prosecute the perpetrators, if any, of the human rights violations alleged to have been committed by [Nigerian] Military personnel against the civilian population in the concerned communities".<sup>7</sup> The ACHPR recommended that Nigeria should: increase efforts in protecting civilians in the north-east;<sup>8</sup> ensure that the military operations in the northeast are conducted with respect for human rights and humanitarian law;<sup>9</sup> investigate and prosecute the perpetrators of all human rights violations alleged to have been committed by the military;<sup>10</sup> ensure records of forced displacement, rescue those abducted;<sup>11</sup> and ensure fair trial guarantees for suspects of terrorism cases.<sup>12</sup>

Amnesty International is concerned that Nigeria's 6<sup>th</sup> Period Report fails to provide clear and comprehensive response to ACHPR's observations and recommendations raised in the 2015 Concluding Observations. For instance, the 6<sup>th</sup> Period Report fails to provide evidence of concrete and lawful security measures or reforms taken by the government in response to ACHPR's recommendation to guarantee the safety, security and protection of civilians in the northeast and to increase efforts in securing the lives and integrity of the civilian population in accordance with its regional and international human rights obligations.<sup>13</sup> As outlined below, while increased military offensive since March 2015, with assistance from the armed forces of neighbouring states, forced Boko Haram out of major towns in north-eastern Nigeria, the armed group continues to attack civilians, through raids on smaller towns and villages as well as bomb attacks.

Similarly, the 6<sup>th</sup> Periodic Report provides no comprehensive account on steps taken to ensure that military operations in the northeast are conducted with respect for human rights

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<sup>6</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 64

<sup>7</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 65

<sup>8</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 96

<sup>9</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 97

<sup>10</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 98

<sup>11</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 99

<sup>12</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 100

<sup>13</sup> The 6<sup>th</sup> period report, on page 13, refers to "Chapter 16 items (2), (3), (4) and the subhead – specifically on Boko Haram insurgency and the 1103 Rescued Chibok girls so far (as at May 2017)" of the report, which only outlines some progress made in rescue of abducted girls and some measures taken in response to the humanitarian crisis. It provides no response on security measures or reforms made to ensure effective protection of civilians as per the recommendation of the ACHPR.

and humanitarian law.<sup>14</sup> Apart from presenting what appears to be accounts of a Human Rights Dialogue with military and some stakeholders,<sup>15</sup> the Report only claims that a training on human rights in counter-terrorism operations have been provided to military field commanders and other senior security and defence intelligence officers between 2014 and 2016.<sup>16</sup> The impact of such training is however yet to be seen as Amnesty International has documented during the reporting period, and continues to document, cases of mass arbitrary arrest and unlawful detentions, extrajudicial executions, torture other widespread patterns of gross violations by military. Highlights of these violations are outlined below.

Amnesty International is also deeply concerned that the government provided no information on details of steps taken to implement ACHPR's recommendation to take "urgent steps to investigate and prosecute the perpetrators, if any, of all human rights violations alleged to have been committed by its Military personnel against the civilian population in the north-east States of Adamawa, Borno and Yobe, in the course of combating the Boko Haram militants in the region".<sup>17</sup> The 6<sup>th</sup> Period Report again makes reference to accounts of a Human Rights Dialogue conducted between military and some stakeholders, but provides no details on what steps, if any, taken to address the entrenched culture of impunity. Amnesty International's research indicates that despite recent domestic processes like the Special Board of Inquiry set up by military in March 2017 and the Presidential Investigative Panel set up in August 2017, to date, no thorough, effective and independent investigations have been carried out into serious allegations of violations and possible international crimes committed by members of Nigerian military and the authorities are yet to bring those responsible for gross human rights violations to justice.

In response to ACHPR's recommendation to "[e]nsure that the trial of terrorism cases are conducted in strict compliance with regional and international standards on the right to a fair trial,"<sup>18</sup> the government of Nigeria states in its 6<sup>th</sup> Periodic Report that in 2014, 500 terror suspects have been recommended for trial by the Defence Headquarters, out of which over 50 convictions have been recorded; 167 terror suspects were recommended to be freed, while 614 terror suspect cases were recommended for review. It further claims that a National Policy on Prosecutions/Code of Conduct for Prosecutors/Guidelines for Prosecutors in Nigeria and a National policy and Strategy on Terrorism were adopted in 2014 and 2015 respectively.<sup>19</sup>

However, the Report does not explain how, if any, the adoption of the strategy and policy translated into ensuring compliance with regional and international standards on the right to a fair trial. Amnesty International's research indicates that thousands of people arbitrarily arrested remain detained incommunicado, without being charged or brought to court. As far

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<sup>14</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 97

<sup>15</sup> NIGERIA'S 6<sup>th</sup> Periodic Country Report- 2016/2016 On the Implementation of the African Charter on Human and Peoples' Rights in Nigeria, August 2017; pages 33-35

<sup>16</sup> NIGERIA'S 6<sup>th</sup> Periodic Country Report; page 14

<sup>17</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 98

<sup>18</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 100

<sup>19</sup> NIGERIA'S 6<sup>th</sup> Periodic Country Report; page 14



as Amnesty International could establish, the aforementioned report regarding the recommended prosecution of 500 suspects and further investigation of hundreds have not been implemented. Amnesty believes that this information relates to people who were detained in Giwa military barracks at the time. In a meeting with Amnesty International in September 2014, the Office of the Federal Minister of Justice and Attorney General informed the organisation that the recommended prosecution and review of suspects could not continue as the military reported most suspects were not “available”, either escaped or were killed, following the attack on the barracks in March 2014.<sup>20</sup> Amnesty International continues to document fair trial concerns with respect to mass trial of Boko Haram suspects, including during the mass trials held in Kainji military detention facility, Niger state, since October 2017 where, 2,300 Boko Haram suspects are reported to have been charged, 526 discharged due to lack of evidence and 205 were convicted of involvement in Boko Haram and sentenced to prison terms.<sup>21</sup> Amnesty International has not been able to verify if those discharged were indeed released.

With respect to ACHPR’s recommendation to “[i]ntensify efforts in locating and rescuing persons abducted from the affected areas by Boko-Haram including the more than 200 Chibok girls”, Amnesty welcomes the positive development of release of 103 girls from Boko Haram abduction. But as outlined below, Amnesty International remains concerned with ongoing cases of mass abductions by Boko Haram since the beginning of 2014 and that hundreds of abductees remain missing or in captivity.

## **PERSISTENT HUMAN RIGHTS CONCERNS**

### **FAILURE TO PROTECT THE RIGHT TO LIFE (ARTICLES 4, 5, 6)**

Nigerian authorities have routinely failed to take reasonable measures to protect people from violent attacks by the armed group Boko Haram as well as armed herders and farmers, despite frequent warnings from villagers and local leaders of impending attacks. The government has also failed to prosecute those suspected to be responsible for these attacks.

#### **BOKO HARAM**

The armed group Boko Haram has wreaked havoc and suffering on the lives of millions of people in north-east Nigeria since 2009. Amnesty International believes that the group has

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<sup>20</sup> Amnesty International meeting with the Office of the Attorney General, September 2014.

<sup>21</sup> Kanji Boko Haram Trials: <http://saharareporters.com/2018/02/20/kainji-boko-haram-trials-court-convicts-205-number-freed-suspects-rises-526>

committed war crimes and crimes against humanity, killing at least 9,000 civilians by 2015, abducting thousands of women, girls and boys and destroying towns and villages.<sup>22</sup> Since March 2015, increased offensive by the military, with assistance from the armed forces of Cameroon, Chad and Niger, forced Boko Haram out of major towns in north-eastern Nigeria. However, Boko Haram continues to kill civilians through raids on smaller towns and villages as well as bomb attacks.

Amnesty International has documented at least 42 cases of mass abductions by Boko Haram since the beginning of 2014. While the authorities secured the release of more than 100 Chibok girls, 112 girls who were abducted in Chibok in 2014 remain missing. In February 2018, Boko Haram fighters abducted 110 girls from a school in Dapchi, Yobe state. Amnesty International has gathered evidence which indicates that security forces failed to act on a four-hour advance warning that a convoy of fighters was heading towards Dapchi. In March 2018, 104 of the 110 girls abducted were returned after negotiations between the authorities and Boko Haram. Five girls died while one remains in captivity.

The two government reports into the Chibok abduction are yet to be made public. Former President Goodluck Jonathan first announced investigations into Boko Haram's responsibility for the Chibok abductions but this report, which was presented to the President in June 2014 was never public. In January 2016, President Muhammadu Buhari ordered another investigation into the government's response to the Chibok abduction. This report was also never made public.

## HERDERS-FARMERS CLASHES

Between 2015 and 2017, 17<sup>23</sup> out of the 36 states in Nigeria experienced violence due to clashes between herders and farmers. These violent clashes between nomadic herders and local farmers, often followed by reprisal killings, have resulted in hundreds of deaths across the country. In June 2016, armed farmers attacked the Mambilla Plateau of Taraba state and left scores of people dead, mostly herders.<sup>24</sup> These attacks and reprisals continue to claim lives, with at least 168 people killed in January 2018 alone in Adamawa, Benue, Kaduna, Ondo and Taraba states.<sup>25</sup> Amnesty International has documented several instances where security forces ignored warnings from villagers and local leaders of impending attacks.<sup>26</sup>

Amnesty international is also concerned that in some recent cases where the Nigerian security agencies did respond to communal violence, they used excessive or unlawful force resulting in even more deaths and destruction. For instance, on 4 December 2017, the Nigeria Air Force fired rockets at villages to respond to an attack by hundreds of herders who attacked eight villages in Adamawa state to avenge the massacre of up to 51 members of

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<sup>22</sup> Amnesty International, Nigeria: 'Our job is to shoot, slaughter and kill': Boko Haram's reign of terror in north east Nigeria. 14 April 2015, <https://www.amnesty.org/en/documents/afr44/1360/2015/en/>

<sup>23</sup> Abia, Adamawa, Benue, Cross river, Delta, Edo, Ekiti, Enugu, Kaduna, Kogi, Kwara, Nasarawa, Niger, Ogun, Plateau, Taraba, Zamfara

<sup>24</sup> Amnesty International, Annual Report 2017.

<sup>25</sup> NIGERIA: DOZENS KILLED AS MILITARY LAUNCHES AIR ATTACKS ON VILLAGES BESET BY SPIRALLING COMMUNAL VIOLENCE: <https://www.amnesty.org/en/press-releases/2018/01/nigeria-dozens-killed-as-military-launches-air-attacks-on-villages-beset-by-spiralling-communal-violence/>

<sup>26</sup> Amnesty International interviews, 2016-2018

their community the previous month. A total of 86 people died in the attack by the herders and air raid. Amnesty International believes that the air raids caused significant destruction and deaths.<sup>27</sup>

Amnesty International is also concerned with the failure of the government to investigate these attacks and to prosecute those suspected to be responsible. Various state commissions of inquiry have been set up by affected states and the federal government, but none have been made public yet.

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Take all necessary legal measures to guarantee the safety, security and protection of civilians and their properties in the affected communities in the northeast from attacks by the armed group Boko Haram;
- Take all necessary legal measures to ensure safety, security and protect the life and property of people against attacks by rival communities, including by taking all necessary measures to detect early signs of attacks;
- Initiate prompt, independent, impartial, and effective investigations into all allegations of violations, crimes against humanity and war crimes committed by members of Boko Haram with the aim of bringing suspects to justice in fair trials that are not subject to the death penalty. The findings of these investigations must be made public;
- Initiate an independent, impartial, and effective investigation into the conflict between farmers and herders with the aim of bringing suspects to justice in fair trials and providing a remedy to the victims. The findings of these investigations must be made public;
- Make public statistics of all completed investigations and prosecutions of those suspected of membership of or support for Boko Haram, or suspected of other crimes committed as part of being a member or supporter of Boko Haram;
- Provide adequate, effective and prompt reparations to the victims of human rights abuses, including medical care, humanitarian assistance and other forms of restitution and rehabilitation, in accordance with the 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. Affected communities should be adequately consulted on the

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<sup>27</sup> NIGERIA: DOZENS KILLED AS MILITARY LAUNCHES AIR ATTACKS ON VILLAGES BESET BY SPIRALLING COMMUNAL VIOLENCE: <https://www.amnesty.org/en/press-releases/2018/01/nigeria-dozens-killed-as-military-launches-air-attacks-on-villages-beset-by-spiralling-communal-violence/>

prioritization of reparations, particularly relating to reconstruction, and on the process for receiving reparations.

## ARBITRARY DETENTION AND DEATHS IN CUSTODY (ARTICLES 5, 6, 7, 11, 12)

In its 2015 Concluding Observations, the ACHPR recommended that the Nigerian government should ensure strict respect for the constitutionally stipulated timelines for remands in police custody and pre-trial detention.<sup>28</sup> In its 6<sup>th</sup> Periodic report, the government claims that the “Nigerian Judiciary is at its best in protecting such rights.”<sup>29</sup> However, Amnesty International’s research indicates that thousands of people continue to be held in incommunicado detention by the military, without access to lawyers, relatives or courts. As they have no access to the outside world, most cannot seek judicial protection of their rights.

Moreover, Amnesty International’s research indicates that a huge backlog of suspects in police custody or in prisons detained without trial persists. In particular, Special Anti-Robbery Squad (SARS) officers routinely fail to bring suspects before a court within 24 to 48 hours as prescribed under the Constitution. Many are held for longer periods, sometimes up to ten months.<sup>30</sup> Large numbers of inmates in Nigerian prisons have not been convicted of any crime and are awaiting trial. As at 16 April 2018, figures from the prisons service show that of the 72,277 prison population 68% are awaiting trial persons.<sup>31</sup>

### ARBITRARY DETENTIONS AND DEATH IN CUSTODY IN THE CONTEXT OF ARMED CONFLICT

In 2015 Amnesty International revealed that since 2011 at least 7,000 people may have died in military detention in northeast Nigeria as a result of starvation, extreme overcrowding and denial of medical assistance.<sup>32</sup> Although conditions in military detention have improved over time, deaths in custody continues at a lower scale. Since 2016, at least 580 people have died in the military detention facility at Giwa barracks, including 29 children and babies. Their bodies were deposited at a mortuary in Maiduguri and then buried in the city’s cemetery.<sup>33</sup>

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<sup>28</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 107

<sup>29</sup> See Country’s response to Recommendation 107 at page 15.

<sup>30</sup> <sup>30</sup> Nigeria: ‘You have signed your death warrant’: Torture and other ill treatment in the Special Anti-Robbery Squad. September 2016 <https://www.amnesty.org/en/documents/af44/4868/2016/en/>

<sup>31</sup> Nigeria Prison Service, Summary of Inmate Population By Convict and Awaiting Trial persons as at 16th April, 2018. [www.prisons.gov.ng/statistics](http://www.prisons.gov.ng/statistics)

<sup>32</sup> Amnesty International, Stars on their shoulders. Blood on their hands. War crimes committed by the Nigerian military. June 2015, [www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF](http://www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF)

<sup>33</sup> Amnesty International annual reports 2015, 2016, 2017

Amnesty International estimates that by April 2017 at least 4,900 people were detained at Giwa barracks. Amongst these includes at least 200 boys, some as young as four, who were detained in an overcrowded and unhygienic cell, without access to their parents.<sup>34</sup>

Between 2015 and 2017, hundreds of women have also been detained without access to their families, lawyers and/or being brought before a court. Many were not told the reasons for their arrest, and none were formally charged. In some cases, the arbitrary detention appeared to be based on flagrant discriminatory grounds, including arbitrary targeting of women travelling to camps for displaced people without their husbands on the assumption that they may have relations with Boko Haram members.<sup>35</sup>

The arbitrary mass arrests and detention of civilians and suspected members and supporters of Boko Haram with no access to the courts, usually made outside the battlefield and often based on no evidence, are contrary to Nigeria's Constitution and its international human rights obligations.

The Terrorism (Prevention) Act (as amended) allows extended detention of individuals suspected of involvement in terrorism. However, even this Act does not allow the administrative detention of individuals without reasonable suspicion and without oversight by the courts. The Act is overly broad and violates Nigeria's Constitution and international human rights obligations. The Constitution requires suspects to be brought before a court within 48 hours, whereas the Act provides for extended detention of individuals suspected of involvement in terrorism.<sup>36</sup> The Act also grants the military arbitrary powers to arrest and detain people, including persons "found on any premises or places or in any conveyance" by the "relevant law enforcement officer of any agency until the completion of the search or investigation under the provisions of this act". The Act further permits excessive use of force as law enforcement officers are allowed under sub-section (2) to "use such force as may be reasonably necessary for the exercise of the powers".

Under the amended Act, anyone who "does, attempts or threatens any act of terrorism", "omits to do anything that is reasonably necessary to prevent an act of terrorism", or "assists or facilitates" an act of terrorism, is guilty of an offence. People convicted of such an offence could face the death penalty, which is the ultimate denial of human rights and a cruel, inhuman and degrading punishment.

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Close all ungazetted detention facilities, including the military detention facility at

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<sup>34</sup> Amnesty International annual report 2017; Amnesty International, Nigeria: 'If you see it, you will cry' Life and death in Giwa barracks. 11 May 2016, Index number: AFR 44/3998/2016. [www.amnesty.org/en/documents/afr44/3998/2016/en/](http://www.amnesty.org/en/documents/afr44/3998/2016/en/)

<sup>35</sup> Amnesty international annual report, 2017

<sup>36</sup> Section 27, subsection (1) allows the court to "grant an order for the detention of a suspect" for 90 days, which the court can renew for another 90 days, until "the conclusion of investigation and prosecution," which appears to allow indefinite detention.

Giwa barracks, and ensure that all detainees are held in legal, sanitary and humane conditions, in line with The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;

- Implement safeguards against human rights violations by the security forces, including arbitrary arrest, incommunicado and unlawful detentions;
- Release all children below the internationally accepted minimum standard age for criminal liability, except for very young children if it is in their best interests that they be kept with their parents and take urgent steps to ensure that their conditions of detention reach minimum standards;
- Provide comprehensive information on all people detained, during the reporting period and currently, in all military detention facilities, reasons for their arrest and detention and clear timeline when those people will be charged or released;
- Initiate prompt, independent, impartial, and effective investigations into the deaths of thousands of people in military detention facilities since 2011 with the aim of establishing criminal responsibility and bringing suspects to justice in fair trials that are not subject to the death penalty. The findings of these investigations must be made public;
- Bring the Terrorism Prevention Act in line with international law, including by repealing the death penalty and providing that an individual may only be arrested on reasonable suspicion of having committed a criminal offence.

## TORTURE (ARTICLE 5)

In its 2015 Concluding Observations, the ACHPR recommended that Nigeria criminalise torture, ensure adequate resources for the National Committee on Torture, and expedite the production of a detailed report on the activities of the National Committee on of Torture set up since 2009.<sup>37</sup>

In December 2017, President Buhari signed the Anti-Torture Act, which penalizes the 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 does not contain provisions for the rehabilitation of victims and legal assistance to victims is limited to support for making complaints.

Amnesty International's research shows that Nigeria's police and military routinely and systematically torture men, women and children – some as young as 12 – using a wide range of methods including beatings, shootings and rape as a means of extracting information,

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<sup>37</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 104, 105, 106

confessions or to punish detainees continued.<sup>38</sup> The police including special units like the Special Anti-Robbery Squad (SARS) were found to have rooms where suspects are routinely tortured.<sup>39</sup>

Allegations of torture against the Special Anti-Robbery Squad (SARS) officers are hardly ever investigated and in some cases suspects are transferred to another location to avoid punishment.<sup>40</sup> Despite the setting up of the Complaint Response Unit in the Police Force headquarters,<sup>41</sup> there is still limited disciplinary actions taken against erring officers.

Amnesty International is not aware of increased resources for the National Committee on Torture and its activity report is yet to be published.

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Ensure 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, including rape or sexual violence and other forms of ill-treatment will not be tolerated under any circumstances;
- Promptly, thoroughly and impartially investigate all allegations of torture and other ill-treatment and bring anyone suspected to be responsible to justice in a fair trial;
- Ensure that statements and other evidence obtained through torture or other ill-treatment are not allowed as evidence in any courts. Such a prohibition should also be included in professional training programmes for police, soldiers, judges, prosecutors and lawyers;
- End the practice of incommunicado detention: ensure that all detainees have access to their family, a lawyer and doctor without delay after their arrest and regularly throughout the period of their detention or imprisonment;
- Ensure that the interrogation of all suspects and detainees takes place in the presence of a lawyer and that all statements and questions be recorded in writing or electronically;
- Ensure that victims of torture and ill-treatment are able to obtain prompt and

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<sup>38</sup> Amnesty International, "Welcome to Hell Fire: Torture and other ill-treatment in Nigeria", September 2014, AFR44/011/2014

<sup>39</sup> Nigeria: 'You have signed your death warrant' torture and other ill treatment in the special anti-robbery squad: (21 September 2016) <https://www.amnesty.org/en/documents/afr44/4868/2016/en/>

<sup>40</sup> Nigeria: 'You have signed your death warrant': Torture and other ill treatment in the Special Anti-Robbery Squad. September 2016 <https://www.amnesty.org/en/documents/afr44/4868/2016/en/>

<sup>41</sup> Complaint Response Unit, [npf.gov.ng/complaint/](http://npf.gov.ng/complaint/)

adequate reparation from the state, including restitution, fair and adequate financial compensation and appropriate medical care, health services and rehabilitation;

- Ensure that the National Committee on Torture is adequately empowered and funded to carry out its functions including conducting periodic visits and inspections of places of detention. The Committee must have access to all places of detention, including military detention facilities, so-called 'preventive' detention centres, the premises of the security services and all prisons. During inspections, the Committee must be able to interview detainees in private. Inspection reports must be published;
- Ensure effective training of officials, including lawyers, judges, medical personnel, police officers and members of the army on how to handle complaints, reports and cases of torture and other ill-treatment in accordance, including by creating protocols for detecting, preventing and prosecuting acts of torture and similar ill-treatment.

## EXTRAJUDICIAL EXECUTIONS AND OTHER UNLAWFUL KILLINGS (ARTICLE 4)

Amnesty International continues to document unlawful killings and extrajudicial executions in Nigeria. These mostly happen in the context of the armed conflict in the northeast as well as during law enforcement operations conducted by the military in other parts of the country. Amnesty International is concerned that the government's decision to deploy the military to control internal public order situations has led to unnecessary loss of lives and seriously undermined the role of the Nigerian police.

In the southeast, the military was deployed to respond to a series of protests, marches and gatherings by members and supporters of Indigenous People of Biafra (IPOB), who are seeking the creation of an independent Biafran state. Between August 2015 and October 2016, security forces killed at least 150 IPOB members and supporters during non-violent gatherings. Amnesty International documented 11 incidents, including one where at least 60 people were killed in May 2016 when the security forces opened fire on IPOB supporters in various locations in the southeast<sup>42</sup> and another in September 2017, where security forces killed at least 12 IPOB supporters in Umuahia, Abia state.<sup>43</sup> The Federal authorities banned IPOB in 2017.

In Zaria, Kaduna state, soldiers killed more than 350 protesters and supporters of the Islamic Movement of Nigeria (IMN)<sup>44</sup> between 12 and 14 December 2015. IMN supporters had blocked a section of the road in front of the IMN headquarters and refused to clear the road

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<sup>42</sup> Nigeria: 'Bullets were raining everywhere': Deadly repression of pro-Biafra activists  
[www.amnesty.org/en/documents/afr44/5211/2016/en/](http://www.amnesty.org/en/documents/afr44/5211/2016/en/)

<sup>43</sup> Amnesty International Report 2017 - Nigeria

<sup>44</sup> The Kaduna state government banned IMN in 2016. Ibrahim El-Zakzaky, leader of the IMN, and his wife remained in incommunicado detention without trial since their arrest in December 2015 despite a court ordering their release and compensation.



to allow a military convoy to pass. The Kaduna state authorities admitted to a Judicial Commission of Inquiry that two days after the massacre, they had secretly buried 347 bodies in a mass grave.<sup>45</sup> The Commission recommended that the members of the military suspected of unlawful killings should be prosecuted,<sup>46</sup> however, the Kaduna state government's white paper rejected most of its recommendations.<sup>47</sup>

Alarming rate of extra-judicial executions are documented in the context of the conflict with Boko-Haram in the north-east. In 2015 Amnesty International revealed that in the course of security operations against Boko Haram in north-east Nigeria, Nigerian military forces extrajudicially executed more than 1,200 people. Amnesty International documented 27 incidents of extrajudicial executions committed by the military in 2013 and 2014.<sup>48</sup> Amnesty International research and analysis has indicates that the military has committed crimes under international law in their response to Boko Haram.

Over the years, the authorities have announced many investigations and inquiries, including into serious allegations of extra-judicial executions and possible crimes under international law committed in the north-east. But the government is yet to prosecute any security officers responsible for these serious human rights violations and crimes and most of the reports of these inquiries are yet to be made public. For instance, despite several promises to investigate, including the Defence Headquarters announcement of an investigation by a team of senior officers, and forensic and legal experts in August 2014,<sup>49</sup> no findings of the reported investigations into the 14 March 2014 extrajudicial executions of 640 men and boys who escaped Giwa barracks, in Maiduguri, was made public. To date, no one has been brought to justice for these extrajudicial executions and the relatives of the victims have received no further information. As outlined above, the Presidential Investigative Panel set up to probe allegations of human rights violations carried out by the military also presented its report to the authorities but the report is yet to be made public.

Nigeria's constitution prohibits unlawful killings. However, Section 33(2) of the Constitution and Police Force Order 237 provide for much wider scope for the use of lethal force than is permissible under international law and standards and is often used to justify shootings by police officers.<sup>50</sup>

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<sup>45</sup> Nigeria: Unearthing the truth: Unlawful killings and mass cover-up in Zaria. 22 April 2016, Index number: AFR 01/3883/2016 <https://www.amnesty.org/en/documents/afr01/3883/2016/en/>

<sup>46</sup>Report of the Judicial Commission of Inquiry into the clashes between the Islamic Movement in Nigeria (IMN) and the Nigerian army (NA) in Zaria, Kaduna state between Saturday 12th and Monday 14th December 2015 <http://kdsg.gov.ng/wp-content/uploads/2016/08/Executive-Summary-of-the-Report-of-the-Judicial-Commission-of-Inquiry-into-the-Zaria-Clashes.pdf>

<sup>47</sup> <https://kdsg.gov.ng/kaduna-releases-white-paper-on-zaria-clashes>

<sup>48</sup> Amnesty International, Stars on their shoulders. Blood on their hands. War crimes committed by the Nigerian military. June 2015, See: [www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF](http://www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF)

<sup>49</sup> Amnesty International, Stars on their shoulders. Blood on their hands. War crimes committed by the Nigerian military. June 2015, See: [www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF](http://www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF)

<sup>50</sup> For example, Rule 3(d) Police Force Order 237, The Police may use lethal force to effect the arrest of a person escaping from lawful custody.

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Initiate prompt, independent, impartial, and effective investigations into all allegations of extra-judicial executions and unlawful killings, including possible war crimes and crimes against humanity committed by the Nigerian military and other security forces with the aim of bringing suspects to justice in fair trials;
- Urgently implement safeguards against extra-judicial executions and unlawful killings by security forces, including taking immediate measures to end unlawful arrest; unlawful, incommunicado and arbitrary detentions and enforced disappearances;
- Make public all reports of investigative findings into allegations of extra-judicial executions and unlawful killings, including those led military or government panels or committees;
- Speed up the process of domestication and implementation the state's obligations under the Rome Statute of the International Criminal Court.
- Amend Section 33(2) of the Constitution and the Police Force Order 237 to ensure that it does not allow the use of lethal force in circumstances broader than those permitted by international human rights law;
- Allow independent international and regional human rights investigators full and free access to investigate allegations of extrajudicial executions and unlawful killings, including to inspect mass grave sites;
- Ensure that enforced disappearances constitute a criminal offence in line with Nigeria's obligations under the Convention for the Protection of All Persons from Enforced Disappearance.

## INTERNALLY DISPLACED PERSONS (ARTICLES 5, 6, 12, 18)

Over 15 million people have been affected by the armed conflict in north-east Nigeria and at least 1.6 million people are internally displaced. Approximately 40 per cent live in IDP camps while the remainder live in host communities.<sup>51</sup>

In 2015 and 2016, tens of thousands of IDPs arrived in the towns the military had liberated from Boko Haram control. To host arriving IDPs, the military established "satellite camps",

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<sup>51</sup> UNOCHA, 2018 Humanitarian Response Plan,  
[https://reliefweb.int/sites/reliefweb.int/files/resources/2018\\_hrp\\_v5.4.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/2018_hrp_v5.4.pdf)

where they kept IDPs under armed guard by the Nigerian military and the Civilian Joint Task Force (Civilian JTF)<sup>52</sup>. In Bama town, for example, the military turned a former hospital complex into a camp, known as Bama Hospital camp. As these camps were in the so-called “inaccessible territories” in Borno state, there was very limited humanitarian assistance. Most of the IDPs were not allowed to leave these camps and did not receive adequate food, water or medical care. In 2015 and 2016, thousands of people died in these camps due to severe malnutrition. In June 2016, the NGO Médecins Sans Frontières (MSF) reported over 1,200 bodies had been buried within the past year in one of such guarded camps in Bama, Borno state.<sup>53</sup>

Since July 2016, when humanitarian access improved, the death rate has decreased. However, IDPs continue to report deaths due to severe malnutrition. Households headed by women continue to report discrimination in access to food assistance and livelihood opportunities.

The vast majority of IDPs in the satellite camps were women, elderly and children. Amnesty International received scores of reports that women and girls in IDP camps were raped and sexually exploited by military officers and members of the Civilian JTF, often in exchange for food and other necessities.<sup>54</sup>

Particularly in the satellite camps in Borno state, there appeared to be widespread sexual exploitation of women by the Civilian JTF members and soldiers. This sexual exploitation was exacerbated by highly coercive circumstances wherein women had lacked access to even survival levels of assistance and services. Women also reported their fear of the military and Civilian JTF members, who had abused their authority by exploiting the desperate situation of women and girls. In some camps, including Bama Hospital camp, women described semi-organized systems of sexual exploitation, where they were collected by Civilian JTF members and taken to their tents, or military men for sex. The complete lack of civilian oversight in this camp created an environment where these human rights violations could continue with impunity.<sup>55</sup>

In February 2015, the Federal government established a committee to investigate allegations of human trafficking and sexual abuse of IDPs, with the complicity of security and camp officials.<sup>56</sup> The results of the investigation have not been made public. In June 2017, the

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<sup>52</sup> A civilian militia group set-up by Borno state authorities in June 2013, which works closely with and under effective control of the security forces in Borno state. They are involved in various forms of security operations, including in assisting identifying and arrest of Boko Haram members. Amnesty International has documented widespread violations and crimes committed by members of this groups.

<sup>53</sup> MSF, Nigeria: At least 24,000 displaced face dire health situation in Borno State, [www.msf.org.uk/article/nigeria-least-24000-displaced-face-dire-health-situation-borno-state](http://www.msf.org.uk/article/nigeria-least-24000-displaced-face-dire-health-situation-borno-state)

<sup>54</sup> Amnesty International, Nigeria: Submission to the United Nations Committee on the Elimination of Discrimination against Women: 67th Session, [www.amnesty.org/en/documents/afr44/6430/2017/en](http://www.amnesty.org/en/documents/afr44/6430/2017/en)

<sup>55</sup> Amnesty International, Nigeria: Submission to the United Nations Committee on the Elimination of Discrimination against Women: 67th Session, [www.amnesty.org/en/documents/afr44/6430/2017/en/](http://www.amnesty.org/en/documents/afr44/6430/2017/en/)

<sup>56</sup> Fact-finding committee on the allegation of ‘rape and child trafficking’ in internally displaced persons (IDPs) camps in the North-East of Nigeria. The Committee was comprised of members of the following organizations: Department of State Services, The Nigerian Police Force, National Human Right Commission, Journalist Against Disaster, Nigeria Red Cross

Chief of Army staff announced an investigation into allegations of sexual violence by soldiers in IDP camps.<sup>57</sup> These reports are yet to be made public and it is unclear if any suspects have been prosecuted.

In October 2016, United Nations Special Rapporteur on the human rights of internally displaced persons reported ongoing concerns of sexual exploitation in IDP camps, and raised concerns that the military and civil authorities appeared to be 'downplaying' allegations of sexual violence in the camps and the complicity of security and camp officials.<sup>58</sup>

In January 2017, the Nigerian Air Force bombed an IDP camp in Rann in Borno state, killing at least 167 civilians, including many children. The military said the bombing was an accident as Rann was not identified as a humanitarian camp.<sup>59</sup> However, the military had set up the IDP camp, has a base next to the camp and is responsible for the protection of the people. The air force claims to have investigated the incident but no report was made public.

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Respect, protect and fulfil the rights of people, including women and girls, currently in displacement and ensure that the amount of food assistance provided, the type of assistance provided and the distribution mechanisms used are appropriate and accessible;
- Ensure movement restrictions imposed on IDPs in camps are lifted or loosened. Any movement restrictions that remain should be necessary, proportionate, non-discriminatory and provided for in law. Where movement restrictions are motivated by concerns as to the security of IDPs, the provision of additional security to enable IDPs to safely leave the camp should be provided where possible;
- Ensure that members of the military and Civilian JTF potentially responsible for serious violations of human rights law, war crimes and crimes against humanity are investigated, and where there is sufficient evidence of criminal responsibility the suspects are brought to justice in fair trials not subject to the death penalty.
- Make public all reports by government led panels or committees into allegations of human rights violations;
- Establish a reparations program, in consultation with civil society and affected

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Society, National Agency for Prohibition of Trafficking in Person and other related offence, National Emergency Management Agency, Nigeria Security and Civil Defence Corp, Office of the Attorney General of the Federation, Office of the National Security Adviser, United Nation Office for the Coordination of Humanitarian Affairs.

<sup>57</sup> Vanguard, 6 June 2017, "Army chief orders investigation into alleged misconduct of soldiers at IDP camp", at:

<https://www.vanguardngr.com/2017/06/army-chief-orders-investigation-alleged-misconduct-soldiers-idps-camp/>.

<sup>58</sup> Human Rights Council, April 2017, SR on IDPs report from Nigeria.

<sup>59</sup> Amnesty International annual report, 2017

communities, with special consideration given to the violations faced by women including in relation to forced displacement, confinement in the camps, starvation, rape and other forms of sexual violence and exploitation, discrimination, and arbitrary detention of themselves and/or the impact of enforced disappearances of their loved ones. Seek and implement expert advice to ensure reparations are gender transformative;

- Domesticate the Kampala convention, including by criminalising and ensuring individual responsibility for acts of arbitrary displacement that amount to international crimes.

## DEATH PENALTY (ARTICLE 4)

Nigeria does not have an official moratorium on executions. The death penalty is mandatory for murder, armed robbery and certain cases of treason. Resolution 136 of the ACHPR calls on State Parties to observe a moratorium on the death penalty with a view to a total abolition of the death penalty and to comply with international norms on the use of the death penalty.

Between 2014 and 2017, several instances have shown that safeguards around the use of the death penalty are inadequate or not enforced. For example, three men were secretly executed in December 2016 in Benin prison in Edo state. One of them was sentenced to death by a military tribunal in 1998, which meant he did not have a right to appeal.<sup>60</sup>

In January 2016, the Upper Sharia Court in Kano sentenced Islamic scholar Abdulaziz Dauda, also known as Abdul Inyass, and eight of his followers to death for blasphemy. In May 2015, Moses Akatugba, sentenced to death for stealing three mobile phones when he was 16 years old, was pardoned after 10 years on death row.

Death sentences continue to be imposed. According to information provided by the Prison Service, there were 2,285 people on death row by December 2017. In the last years, there has been an increase in death sentences: 621 people were sentenced to death in 2017 compared to 527 in 2016 and 171 in 2015.

In July 2017, at the National Economic Council, state governors agreed to either sign execution warrants or commute death sentences as a way of addressing overcrowding in prisons.

Between 2014 and 2017, nine states in Nigeria either enacted or proposed laws prescribing death penalty as the punishment for kidnapping, abductions or similar offences. In September 2017, the Senate passed a bill prescribing the death penalty as punishment against abduction, wrongful restraint or wrongful confinement for a ransom, contrary to Article 6 of the ICCPR, which only permits the death penalty for the “most serious crimes.” This provision is interpreted as crimes involving intentional killing. Similarly, the Anti-

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<sup>60</sup> Amnesty International Report 2016/17

Terrorism Act (as amended) provides for the death penalty for terrorism, although not mandatory.

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- Impose a moratorium on the death penalty, with a view to abolition;
- Bring its use of the death penalty in line with international law, in particular by ensuring that all prisoners on death row have exhausted their right to appeal, that no one is sentenced to death for an offence committed when under the age of 18 and that no one is sentenced to death for crimes which do not involve intentional killing;
- Ensure that the bill expanding the scope of the death penalty is not signed into law.

## LGBTI RIGHTS (ARTICLES 2, 3, 5)

Human rights abuses continue to be committed against people suspected of engaging in same-sex relations or for having a non-conventional gender identity. Arrests, public shaming, extortion and discrimination of persons based on their sexual orientation remain common in Nigeria.<sup>61</sup>

The Same-Sex Marriage (Prohibition) Act became law on 7 January 2014. The Same Sex Marriage (Prohibition) 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. Amnesty International's ongoing research indicates that 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. For instance, in July 2017, the police arrested 40 men and boys in a Lagos hotel, who were arraigned in a Lagos Magistrate Court, for allegedly engaging in homosexuality.

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Repeal the Same Sex Marriage (Prohibition) Act;

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<sup>61</sup> [www.amnesty.org/en/press-releases/2014/01/nigeria-halt-homophobic-witch-hunt-under-oppressive-new-law/](http://www.amnesty.org/en/press-releases/2014/01/nigeria-halt-homophobic-witch-hunt-under-oppressive-new-law/)

- Release all individuals imprisoned solely on the basis of their sexual orientation.

## **FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY (ARTICLE 9, 10, 11)**

In its 2015 Concluding Observations, the ACHPR recommended that the Nigerian government should ensure the right to freedom of expression, in particular, for the private media and human rights defenders.<sup>62</sup> While Section 39 of the 1999 Nigerian Constitution guarantees the right to freedom of expression, Amnesty International continues to document cases where security forces threaten, arrest and detain journalists, bloggers and human rights defenders, some without trial.

Since 2016, Amnesty International has documented 12 cases across Nigeria in which the security forces arrested and detained journalists and bloggers, merely for expressing critical opinions on both conventional and social media platforms.

The right to peaceful assembly in Nigeria has also increasingly come under threat. There have been clampdowns on protests organised by Islamic Movement in Nigeria (IMN), which was banned by the Kaduna state government in 2016, and Indigenous People of Biafra (IPOB) which was banned in 2017. As outlined above, this brutal clampdown has led to death of hundreds of people.

The Cyber Crime Act, which became law in May 2015, requires internet service providers to keep all traffic and other data of subscribers for two years and make that data available to law enforcement agencies upon request without a court order, thus violating the rights to privacy and freedom of expression.

## **RECOMMENDATIONS**

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Take effective measures to end the practice of arbitrary arrests, harassments and threats against journalists and bloggers and others for exercising their freedom of expression;
- Prohibit the deployment of military forces in public order situations and ensure that the police forces are provided with sufficient resources to police large scale or hostile demonstrations and counter-demonstrations and ensure effective training including on the appropriate and differentiated use of force and weapons, including antiriot equipment;

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<sup>62</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 121

- Promptly, thoroughly and impartially investigate all allegations of excessive use of force during protests by military and security forces and bring anyone suspected to be responsible to justice in a fair trial, including superior officers if they have failed to prevent the arbitrary use of force when they had an opportunity to do so;
- Ensure arbitrary or excessive use of force and firearms by law enforcement officials is punished as a criminal offence and clarify that superior orders may not serve as an acceptable defence;
- Amend Cyber Crime Act to bring it in line with international human rights standards on the rights to privacy and freedom of expression.

## HUMAN RIGHTS DEFENDERS (ARTICLES 6, 9, 25)

Nigeria has not responded to ACHPR's recommendations made with respect to human rights defenders (HRDs) in the 2015 Concluding Observations.<sup>63</sup> Amnesty International is concerned that Nigeria is not doing enough to protect HRDs and that harassment and threats against have increased since 2015. For instance, Maurice Fangnon, a 61-year-old HRD, wrote at least three petitions to the police asking for investigations into allegations of the involvement of a member of a powerful royal family in incidences of arson, looting and murder during attempts to forcibly evict residents of the Otodo-Gbame community. On 19 July 2017, police arrested and detained Maurice Fangnon for six days.<sup>64</sup> He was rearrested on 12 December 2017 with Bamidele Friday and both released on bail on 22 December.

In another emblematic case, Raymond Gold faces criminal charges carrying a maximum three-year prison sentence for demanding in 2016 that an oil company conduct an Environmental Impact Assessment on activities which harmed the environment.<sup>65</sup> Further, on 6 June 2017, police officers harassed, beat and injured Justus Ijeoma at Onitsha Area Command for defending the rights of suspects in police custody. While he received a written apology from the Area Command in October, no one is held accountable for this violation.<sup>66</sup>

Moreover, in recent years, Nigerian government has taken regressive steps which could undermine the work of human rights defenders.

In November 2015, Nigeria voted against an UN General Assembly resolution which seeks to protect those who face risks and attacks for their work to defend and promote human rights.

In 2017, the National Assembly debated a bill to regulate and restrict the work of NGOs

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<sup>63</sup> African Commission on Human and Peoples' Rights, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria, para 127 and 128

"Nigeria notes this recommendation and progress made in this regard reported next to the ACHPR."

<sup>64</sup> Urgent Action Nigeria: Human rights defender facing intimidation: Maurice Fangnon [www.amnesty.org/download/Documents/AFR4467752017ENGLISH.pdf](http://www.amnesty.org/download/Documents/AFR4467752017ENGLISH.pdf)

<sup>65</sup> Amnesty International annual report, 2016 and 2017

<sup>66</sup> Amnesty International annual report, 2016



which would seriously impact on the freedoms of association and expression and restrict the independence of HRDs. If passed, it would establish an NGO Regulatory Commission to keep a register of all NGOs, “facilitate and co-ordinate” their activities, provide “policy guidelines” and monitor their budgets and funding. The Commission would also have the power to deny or terminate a registration “in the national interest”.<sup>67</sup>

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Ensure all charges instituted against HRDs, including against Maurice Fangnon, Bamidele Friday and Raymond Gold, are promptly dropped;
- Take effective measures to end the practice of arbitrary arrests, harassments and threats against HRDs, including by publicly condemning any such attacks;
- Promptly, thoroughly and impartially investigate all allegations of arbitrary arrests, harassments and threats against HRDs and bring anyone suspected to be responsible to justice in a fair trial;
- Implement ACHPR’s recommendations made in its 2015 Concluding Observations, including by adopting legislative measures to protect human rights defenders and creating a forum for dialogue with civil society organisations;
- Urge the National Assembly not to pass the NGO bill.

## ENVIRONMENT AND OIL POLLUTION (ARTICLES 15, 16 AND 22)

Every year, hundreds of oil spills occur in the Niger Delta, caused by operational faults, poor maintenance of oil company equipment, as well as through sabotage and oil theft (also known in Nigeria as “bunkering”).<sup>68</sup> The spills damage the environment, destroy livelihoods of people and have had impact on the rights to health, food and clean water of people living in the areas. The cumulative impact of decades of contamination makes the Niger Delta one of the most polluted places on earth. Neither the oil industry nor the Nigerian government have yet been able to put into practice lasting solutions to prevent the spills and clean them up effectively.<sup>69</sup> The Nigerian government is also failing to hold the oil industry accountable

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<sup>67</sup> Amnesty International, Nigeria: NGO Bill threatens freedoms in Nigeria, [www.amnesty.org/download/Documents/AFR4475902017ENGLISH.pdf](http://www.amnesty.org/download/Documents/AFR4475902017ENGLISH.pdf)

<sup>68</sup> Amnesty International, Nigeria: Negligence in the Niger Delta: Decoding Shell and Eni’s poor record on oil spills. <https://www.amnesty.org/download/Documents/AFR4479702018ENGLISH.PDF>

<sup>69</sup> Oil companies blame the vast majority of spills on sabotage and theft, based on a flawed oil spill investigation led by the oil companies rather than the National Oil Spill Detection and Response Agency (NOSDRA) which lacks the capacity and expertise to properly monitor the hundreds of oil spills that occur every year across the Niger Delta.

for its human rights impacts in the Niger Delta.

Oil companies blame the vast majority of spills on sabotage and theft, a claim which is based on a flawed oil spill investigation process led by the oil companies rather than the National Oil Spill Detection and Response Agency (NOSDRA), the government regulator. Amnesty International's research indicates that NOSDRA lacks the resources to properly monitor the hundreds of oil spills that occur every year across the Niger Delta and to ensure that companies take all reasonable steps to prevent spills and clean up those that do occur as required by Nigerian law.<sup>70</sup>

In August 2015, President Muhammadu Buhari announced the clean-up of Ogoniland and in June 2016, the authorities launched a programme to clean-up the Niger-Delta by identifying oil spills and working with the oil companies to restore environment affected by oil pollution, including providing compensation to affected communities. However, Amnesty International is concerned that the progress has been very limited.<sup>71</sup>

In November 2017, Amnesty International called on the governments of Nigeria, The Netherlands and the United Kingdom to investigate, with a view to prosecution, Shell's potential involvement in crimes linked to human rights violations committed by the Nigerian security forces in Ogoniland in the 1990s.<sup>72</sup>

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Investigate, with a view to prosecution, Shell's potential involvement in crimes linked to human rights violations committed by the Nigerian security forces in Ogoniland in the 1990s;
- Ensure that the National Oil Spill Detection and Response Agency is provided with adequate resources necessary to investigate oil spills independently of the oil companies;
- Take steps necessary to address the negative environmental and human rights impacts of the oil pollution. As a matter of urgency these should include health monitoring of affected communities, improvements in health care facilities and a survey of drinking water and food sources in case of contamination by hydrocarbons. The results should be made public. All communities should be consulted, and measures should be taken to ensure that women are given adequate access to the community engagement process at all stages.

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<sup>70</sup> <https://www.amnesty.org/download/Documents/AFR4479702018ENGLISH.PDF>

<sup>71</sup> Amnesty International, Nigerian And International Civil Society Call For Clean-Up Of Oil Pollution In The Niger Delta To Finally Begin [www.amnesty.org/en/documents/afr44/6411/2017/en/](http://www.amnesty.org/en/documents/afr44/6411/2017/en/)

Nigeria: A Criminal Enterprise? Shell's Involvement In Human Rights Violations in Nigeria in the 1990s [www.amnesty.org/en/documents/afr44/7393/2017/en/](http://www.amnesty.org/en/documents/afr44/7393/2017/en/)

## FORCED EVICTIONS AND THE RIGHT TO ADEQUATE HOUSING (ARTICLES 14, 16, 18)

Between 2015 and 2017, Nigerian authorities have carried out large-scale evictions and demolition of the homes of thousands of people in Kaduna, Lagos and Rivers states in the absence of legal and procedural safeguards, including genuine consultation, adequate notice, access to legal remedies, and provision of adequate compensation and adequate alternative housing.

Since 2015 up to 2017, the Lagos state authorities have forcibly evicted more than 40,000 people.<sup>73</sup> In what demonstrates as a continuing pattern, around 10,200 residents of the Badia-East community faced forced evictions in September 2015;<sup>74</sup> more than 30,000 residents of Otodo Gbame waterfront community and hundreds from nearby community in Ebute Ikate were forcibly evicted in November 2016 and at least 5,000 people from Otodo-Gbame and Ilubirin communities in Lagos state were also evicted between March and April 2017.<sup>75</sup> At least two people were shot on 9 April, one fatally, as the police fired at unarmed residents during a forced eviction operation in Otodo-Gbame, Lagos state.<sup>76</sup>

The Lagos state authorities have ignored two court decisions<sup>77</sup> declaring forced evictions as unlawful, and cruel, inhuman and degrading treatment. The Lagos state authorities first ignored a November 2016 interim injunction by a Lagos state High Court restraining the government and its agents from demolishing the homes of the claimants, pending the hearing of the case. In November 2016, forced evictions were carried out in violation of this court order. In January 2017, the court found that forced evictions and their threat were unconstitutional and amounted to cruel, inhuman and degrading treatment.<sup>78</sup> In violation of this order, government agents went ahead with forced evictions in March and April 2017 in Otodo-Gbame and Ilubirin communities. In February 2017, a High Court in Abuja declared threats of eviction without the service of statutory notices, illegal.

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Establish a moratorium on mass evictions until adequate legal and procedural

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<sup>73</sup> Amnesty International, Nigeria: The human cost of a megacity: Forced evictions of the urban poor in Lagos, [www.amnesty.org/en/documents/afr44/7389/2017/en/](http://www.amnesty.org/en/documents/afr44/7389/2017/en/)

<sup>74</sup> Amnesty International report 2015

<sup>75</sup> Amnesty International, Nigeria: The human cost of a megacity: Forced evictions of the urban poor in Lagos, [www.amnesty.org/en/documents/afr44/7389/2017/en/](http://www.amnesty.org/en/documents/afr44/7389/2017/en/)

<sup>76</sup> Amnesty International, Nigeria: The human cost of a megacity: Forced evictions of the urban poor in Lagos, [www.amnesty.org/en/documents/afr44/7389/2017/en/](http://www.amnesty.org/en/documents/afr44/7389/2017/en/)

<sup>77</sup> Akakpo Agemo's & ors v Attorney General of Lagos & ors. (LD/4232MFHR/16) 26 January & 21 June 2017

<sup>78</sup> Amnesty International, Nigeria: Lagos State High Court rules that forced evictions are cruel, inhuman and degrading. [www.amnesty.org/en/documents/afr44/5618/2017/en/](http://www.amnesty.org/en/documents/afr44/5618/2017/en/). On 28 June 2017, Lagos State announced that it had filed an appeal against this decision.

safeguards are in place to ensure that all evictions comply with international human rights standards, including through the adoption of legislation to explicitly prohibit forced evictions, and guidelines to ensure that evictions are carried out in compliance with the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement;

- Provide effective remedies, including adequate alternative housing, and compensation for any loss or damage to property for persons who have been victims of forced eviction;
- Immediately investigate the forced evictions in Lagos, Kaduna and Rivers states and those suspected of criminal responsibility for the human rights violations committed during the forced evictions should be brought to justice without recourse to the death penalty.

## THE RIGHTS OF WOMEN AND GIRLS (ARTICLE 16, 18 AND 5)

Despite ongoing concerns of slow pace of progress and lack of definitive timelines for the conclusion of a number of legislative, policy and institutional reform processes, Amnesty International notes and welcomes steps being taken towards domesticating the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The National Assembly is currently debating the Gender and Equal Opportunities Bill (GEO Bill), which contains provisions that prohibit discrimination against women and girls. If adopted, it repeals pre-existing discriminatory laws, policies, rule, directives and customs and sets out provisions aimed at addressing harmful cultural practices that violate the rights of widows.<sup>79</sup>

The enactment of the Violence Against Persons Prohibition Act (VAPP Act) in 2015 also symbolizes a positive development, although Amnesty International is concerned that the Act is currently only applicable in the Federal Capital Territory (FCT) and Ogun state, which passed the act in February 2018. The law criminalizes several acts which are harmful and discriminatorily against women and broadens the narrow definition of rape as contained in Criminal and Penal codes.<sup>80</sup> While some additional amendments are required to bring the Act fully in line with international standards, by criminalising these acts which are predominantly carried out against women and girls, the VAPP Act has expanded the scope of protection available to women and girls in FCT and Ogun state. Each state in Nigeria needs to adopt the VAPP for it to be applicable across the country.<sup>81</sup>

Despite this positive legal reform, effective implementation remains a key concern. Amnesty

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<sup>79</sup> Amnesty International, Nigeria: Submission to the United Nations Committee on the Elimination of Discrimination against Women: 67th Session, [www.amnesty.org/en/documents/afr44/6430/2017/en/](http://www.amnesty.org/en/documents/afr44/6430/2017/en/)

<sup>80</sup> Section 357, Criminal Code of Nigeria.

<sup>81</sup> Amnesty International, Nigeria: Submission to the United Nations Committee on the Elimination of Discrimination against Women: 67th Session, [www.amnesty.org/en/documents/afr44/6430/2017/en/](http://www.amnesty.org/en/documents/afr44/6430/2017/en/)

International has documented several cases where police officers subjected female detainees to sexual violence either to extract a 'confession' or as punishment. Victims described how they were raped, verbally abused and sexually assaulted. One woman told Amnesty International that a police officer sprayed tear gas into her vagina in a bid to coerce her to confess to the crime of armed robbery.<sup>82</sup>

In October 2017, the ECOWAS Court held that Nigeria violated the right to dignity of three women who were falsely accused of being sex workers, verbally abused, physically assaulted and unlawfully arrested between 2012 and 2013.<sup>83</sup>

## RECOMMENDATIONS

Amnesty International calls on the ACHPR to urge the government of Nigeria to:

- Ensure the speedy domestication of CEDAW and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa by passing the GEO Bill into law;
- Urge state governments yet to do so, to adopt legislation domesticating the GEO Bill and the VAPP Act in their laws;
- Make clear and public statement to all members of the police, military and other security forces, that torture, including rape, and other forms of ill-treatment or sexual violence, will not be tolerated under any circumstances;
- Ensure that all allegations of torture or other ill treatment, including sexual violence, are promptly, impartially and effectively investigated by a body independent of the alleged perpetrators, and those suspected of criminal responsibility for torture or ill-treatment are brought to justice without recourse to the death penalty.

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<sup>82</sup> Amnesty International, "Welcome to Hell Fire: Torture and other ill-treatment in Nigeria", September 2014, AFR44/011/2014

<sup>83</sup> Dorothy Njemanze & 3 others v Federal Republic of Nigeria suit no: ECW/CCJ/APP/17/14; Judgment: ECW/CCJ/JUD/08/17

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