

NIGERIA

50 YEARS OF
INDEPENDENCE:

MAKING HUMAN RIGHTS A
REALITY

AMNESTY
INTERNATIONAL



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**AMNESTY
INTERNATIONAL**



INTRODUCTION

“More than 2,600 death sentences had been carried out under military governments since 1970, most of which were passed by Robbery and Firearms Tribunals, now effectively abolished” AIR 2000

When Nigeria threw off the chains of colonialism, the country was looked to as a beacon of hope and progress in Africa. A country of enormous energy and potential, Nigeria seemed destined to lead the continent to a bright future, one which recognized the inherent dignity and equal and inalienable rights of all. Yet, despite some significant advances, fifty years later it seems the expectations at independence remain largely unfulfilled.

Amnesty International is calling on the Nigerian government to improve its national human rights record and demonstrate Nigeria’s strong commitment to promoting and protecting human rights within Nigeria and beyond.

Since independence, Nigeria has explicitly accepted human rights obligations through the international and regional human rights treaties which it has ratified, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Nigeria on 29 July 1993; and the African Charter on Human and Peoples’ Rights.¹ In 2009, Nigeria became the second country in Africa to deposit a National Plan of Action at the UN Human Rights Council.

Nigeria continues to play an important role in international and African affairs. The Nigerian Government played a critical role in ending apartheid and defending the human rights of oppressed peoples in southern Africa; and in the peaceful resolution of conflict through the offices of the Organization of African Unity.² Nigeria played an important role in the establishment of the African Union (AU) and its various organs; and continues to play an important role in peacekeeping missions. Nigeria has frequently shown its willingness to take a leading role by offering itself to be elected to bodies where it can play a significant role in addressing human rights in various parts of the world. Currently, Nigeria is a non permanent member of the United Nations (UN) Security Council until December 2011. Nigeria has also been recently elected to a three year term to the AU Peace and Security Council, a seat which Nigeria assumed on 1 April 2010 until 31 March 2013; Nigeria’s representative to the UN Human Rights Council was President of the Council between 2008 and 2009; and Nigeria is currently chairing the Africa Group at the UN Human Rights Council.

Nationally, efforts have been made by the Nigerian government to improve the human rights situation within the country since the end of military rule in 1999. The Constitution, which came into force in 1999, recognizes the right to life, prohibits torture and other ill treatment, and guarantees a fair trial. However, a number of human rights issues remain of concern. The Police continue to torture and kill with impunity; hundreds of people languish on death row in Nigeria’s prisons awaiting execution; access to justice is regularly denied to those who cannot afford it; 50 years of commercial oil extraction in the Niger Delta has brought impoverishment, conflict, human rights abuses and despair to many; millions of people have

been forcibly evicted from their homes across the country; human rights defenders and journalists continue to face intimidation and harassment; violence against women remains pervasive; violence against children, including child trafficking, child labour, sexual exploitation and harmful traditional practices continues; the cycle of religious, interethnic and communal violence persists; and legislative provisions allow for prejudicial treatment on the basis of sexual orientation, consensual sexual relations or gender identity.

Nigeria has not ratified the first or second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty; nor has it ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR); the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; and the Protocol establishing the African Court of Justice and Human Rights.

As Nigeria turns 50, Amnesty International calls on the Nigerian government to take concrete steps to make human rights a reality for all Nigerians, which should include the following ten points:

1. Investigate all cases of torture, enforced disappearance, and extrajudicial executions promptly, independently and impartially and bring to justice those responsible in accordance with international standards for fair trial without recourse to the death penalty;
2. Establish an official moratorium on executions with an ultimate view to abolish the death penalty; and commute all death sentences;
3. Improve access to justice; and immediately release from prison Patrick Obinna Okoroafor;
4. Protect Human rights in the Niger Delta and strengthen the regulation of the oil industry, including with effective enforcement and appropriate sanctions;
5. End forced evictions and implement measures to realise the right to adequate housing; and develop and adopt concrete and effective measures to ensure the entire population a minimum degree of security of tenure, sufficient, at least, to protect them from forced evictions;
6. Protect freedom of expression and fully and promptly investigate all acts of intimidation or violence against human rights defenders and journalists, and ensure those responsible are brought to justice;
7. Stop violence against women and implement Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in both federal and state legislation;
8. Ensure that the Child Rights Act (2003) is enacted and fully implemented in each of Nigeria's 36 states; and immediately bring all young offenders' institutions and other detention facilities into line with the standards recommended in the Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice;

9. Protect the right to life and security of persons and investigate all cases of religious, inter-ethnic and communal violence promptly, independently and impartially and bring to justice those responsible in accordance with international standards for fair trial, without recourse to the death penalty;

10. Take all necessary legislative, administrative and other measures to prohibit and eliminate prejudicial treatment on the basis of sexual orientation, consensual sexual relations or gender identity at every stage of the administration of justice.

1. PREVENT AND PROSECUTE ACTS OF EXTRAJUDICIAL EXECUTIONS, TORTURE AND OTHER ILL TREATMENT

“The acting IGP stated that in the first 100 days he was in office, 1,628 armed robbers were arrested and 785 were killed by the police.” AIR 2008

Since civilian rule returned in 1999, Nigeria’s Police and armed forces have been responsible for large numbers of extrajudicial executions; deaths in custody; torture; and cruel, inhuman and degrading treatment of alleged criminals in custody.

The police continue to kill hundreds of people every year with impunity. Many are unlawfully killed before or during arrest in the street or at road blocks. Others are tortured to death in police detention. A large proportion of these unlawful killings may constitute extrajudicial executions. Amnesty International receives consistent reports that the Police Force routinely torture suspects in order to extract information.

In other cases, people disappear from Police custody. Chika Ibeku disappeared from Police custody in April 2009; the Nigerian Bar Association filed habeas corpus proceedings in May 2009. To date the police have not produced the young man.

The families of the victims rarely receive justice and are often left with no answers. Few police officers are held accountable. In most cases there is no investigation into deaths in custody, extrajudicial executions or enforced disappearances.

Nigeria’s Constitution and the Nigeria Police Force Order 237 (Rules for guidance in use of firearms by the police) provide much broader grounds for the use of lethal force than is permissible under international law and standards, permitting police officers to shoot suspects and detainees who attempt to escape or avoid arrest “provided the offence is such that the accused may be punished with death or imprisonment for 7 years or more”. Escaping custody or resisting arrest is punishable with seven years imprisonment under Nigerian legislation. As such, the Constitution and Police Force Order 237 allow police officers to shoot with impunity anyone who flees.

The excessive use of force by Police against protestors is also continues to the present day. In it 2003 Annual Report, Amnesty International recorded excessive use of force by police during a protest in Lagos: *“An eyewitness to a protest in Oshodi, Lagos, on 7 July 2002, reported that hundreds of peaceful protesters, chanting and shouting slogans, were charged and tear gassed by the police without warning. Police and city officials denied any wrongdoing by the police, blaming demonstrators for the deaths.”*³

On 12 October 2009, armed security forces opened fire on a crowd of people peacefully protesting against the proposed demolition of their homes in Bundu community, Port Harcourt, Nigeria. At least twelve people were shot and seriously injured. In addition, eyewitnesses told Amnesty International they saw six dead bodies piled in the back of a Hilux police pick-up truck. One body was traced to a morgue. The total number of dead remains unknown.

Amnesty International calls on the Nigerian government to:

- Investigate all cases of torture, enforced disappearance, and extrajudicial executions promptly, independently and impartially and bring to justice those responsible in accordance with international standards for fair trial without recourse to the death penalty;
- Ensure that the relevant provisions of international and regional instruments are reflected in national legislation, including legislation criminalising torture, enforced disappearance and extrajudicial executions;
- Amend sections 3(d) and 3(e) and 6 of Force Order 237, which allow police officers to shoot rioters and suspects who attempt to escape or avoid arrest. These sections of the Force Order are not in line with the UN Basic Principles on the Use of Force and Firearms and are being implemented arbitrarily.

2. ADOPT A MORATORIUM ON EXECUTIONS

“At least 111 people were publicly executed .., some 68 of them after being convicted by special tribunals with no right of appeal... in Kwara State, six people convicted of stealing cars on 17 July had their sentences confirmed by the state governor the next day and were executed the day after that.” AIR 1985

In 2010, hundreds of people continue to languish in Nigeria’s prisons awaiting execution, including women and juveniles, the elderly and infirm. Many were sentenced to death following blatantly unfair trials.

In 1984, Robbery and Firearms Tribunals were re-established, each composed of a High Court judge, one military officer and one police officer, and there was no right of appeal to a higher court for those sentenced by the tribunals.⁴ Execution was by firing squad. Although they were effectively abolished in 1999, scores of people convicted by these tribunals still remain on death row, never having had the right to appeal.

In 2004 and again in 2007, expert groups set up by former president Obasanjo – the National Study Group on Death Penalty (2004) and the Presidential Commission on Reform of the Administration of Justice (2007) – recommended a moratorium on executions. However their recommendations have never implemented.

Research carried out by Amnesty International and Legal Defence and Assistance Project (LEDAP) indicates that hundreds of death row prisoners in Nigeria may be innocent.⁵ Retentionist countries have obligations to ensure that the death penalty is imposed only for the most serious crimes, to respect prohibitions under international law regarding its use and to fully respect all safeguards guaranteeing protection of those facing the death penalty. However, weaknesses in the Nigerian criminal justice system may lead to breaches of international human rights law and standards.

In 1989, the number of reported executions dropped sharply, from at least 85 in 1988 to at least 12 in 1989. However the real figure for 1989 was believed to be considerably higher. Executions that were carried out by hanging inside prisons, as opposed to public executions by firing squad, were not announced officially.

More than 2,600 death sentences were carried out under military governments since 1970, most of which were passed by Robbery and Firearms Tribunals.

Despite a major decline in executions since the end of military rule, and - according to the Nigerian government - no executions in recent years, the resumption of executions remains a very real risk.

In 2007, Amnesty International and Nigerian NGOs uncovered evidence of at least seven executions by hanging carried out in 2006 in Kaduna, Jos and Enugu prisons, although on 15 November 2007, a Nigerian government representative at the UN had stated "we have not carried out any capital punishment in recent years in Nigeria". After Amnesty International revealed its findings, a Kano state official confirmed to the BBC that the executions had taken place.

On 9 February 2009, at the 4th Session of the United Nations Universal Periodic Review (UPR) Nigeria's Minister of Foreign Affairs stated that "Nigeria continues to exercise a self-imposed moratorium [on the death penalty]." However, in June 2010, at a meeting of the National Economic Council (NEC), chaired by the Vice President of Nigeria and attended by Nigeria's state governors, the Council asked the Nigerian state governors to review all cases of death row inmates and to sign execution warrants as a means of decongesting the country's prisons.⁶ A similar decision was taken in April 2010 at a meeting of the Council of States.⁷

This approach to prison decongestion is not unprecedented in Nigeria: in 1984, 55 condemned prisoners were allegedly executed in Enugu on 15 November; a government official was alleged to have stated that nine people were shot and 46 hanged to “decongest” the prison.⁸

The death penalty has not proved an effective answer to violent crime in Nigeria. Rather, it continues to be a measure taken to allow politicians to appear to be taking strong action against crime.

In September 1987, the Federal Military Government reportedly ordered to governors of Lagos, Ogun, Oyo and Ondo states to execute at least 100 individuals sentenced to death for robbery. The directive, which was to be carried out by the end of the month, was apparently issued following intensified police action against an upsurge of armed robbery.

In 2009, several states in Nigeria extended the scope of the death penalty to include crimes related to kidnapping, including Abia, Akwa Ibom, Anambra, Ebonyi, Enugu and Imo – and a bill to this end remained pending in Delta State, contrary to international human rights law and standards.

Amnesty International calls on the Nigerian government to:

- Establish an official moratorium on executions with an ultimate view to abolish the death penalty;
- Commute all death sentences;
- Urgently review all cases of death row inmates who were under the age of 18 at the time of commission of the alleged crime, who were sentenced to death by military tribunals, seriously ill inmates - including mentally ill and elderly inmates - with a view to commuting their death sentences;
- Bring Nigeria into line with international and national standards by limiting the number of offences for which executions may be imposed, and refrain from extending the scope of the death penalty;
- Take the necessary steps to ensure the prompt ratification, without reservations, of the first and second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty.

3. IMPROVE ACCESS TO JUSTICE

“In February the government promulgated SMC Decree No. 2- the State Security (Detention of Persons) Decree 1984- which empowered the authorities to detain indefinitely anyone suspected of being “concerned in acts prejudicial to state security” or of having “contributed to the economic adversity of the nation”.” AIR 1985

While Amnesty International welcomes the end of military decrees that allowed for indefinite detention without trial; and for special courts that denied defendants the right of appeal; serious barriers to access to justice remain.

In 1999, the Supreme Military Council (SMC) Decree No. 2- the State Security (Detention of Persons) Decree 1984- was revoked, along with 30 other military decrees.⁹ Others were amended to restore jurisdiction to the ordinary courts in criminal cases. Also rescinded were decrees which provided for special courts used to imprison and execute government critics after grossly unfair political trials. Among the decrees amended to restore the jurisdiction of the ordinary courts was the Robbery and Firearms (Special Provisions) Decree, No. 5 of 1984, which provided the death penalty for armed robbery. Jurisdiction in armed robbery cases was restored to the state-level High Court, with a right of appeal to the Court of Appeal and Supreme Court.

In 2010 people still spend up to ten years in prison awaiting trial, some even longer. Today, Nigeria’s prisoners are languishing in prison not because of a military decree but because they are too poor to afford a lawyer and Nigeria’s criminal justice system is too broken to help them. According to Nigeria’s Minister of the Interior, the total prison population is 46,000, of which some 30,000 are awaiting trial; they await their trial for years in appalling conditions. Few can afford a lawyer and the government-funded Legal Aid Council is unable to provide assistance for everyone who needs this.

Many prisoners in Nigerian jails did not have a fair trial. For example, Patrick Obinna Okoroafor continues to be incarcerated in Aba prison, Abia State, despite a High Court judgement on 18 October 2001 which pronounced his death sentence to be illegal, null and void. He was only sixteen when he was sentenced to death by a Robbery and Firearms Tribunal on 30 May 1997. He did not have the right to appeal and said he was tortured while in police detention. His case mates were all executed in 1997. Amnesty International wrote about one of them, Chidiebere Onuoha, in the 1998 Annual Report:

“At least 33 people were executed during the year, including a 17-year-old minor who had sought an urgent injunction from the Federal High Court to prevent his execution. Chidiebere Onuoha was shot dead in front of a crowd of thousands in July after being convicted by a Robbery and Firearms Tribunal, a special court directly appointed by the military authorities which allows no right of appeal.”

Amnesty International calls on the Nigerian government to:

- Take effective steps to ensure persons accused of a criminal offence are able to exercise their right to promptly challenge the lawfulness of their detention in court, and to have a prompt and fair trial in compliance with international standards for fair trial;
- Improve access to legal aid and provide adequate resources to the Legal Aid Council to hire more lawyers;
- Implement the recommendations to improve access to justice of past governmental commissions;
- Review the Prison Act and the Police Act and bring them into line with Nigeria's obligations under international human rights law;
- Prioritise criminal justice sector reform bills, which are currently pending before the National Assembly;
- Immediately release from prison Patrick Obinna Okoroafor.

4. PROTECT HUMAN RIGHTS IN THE NIGER DELTA

“Eighty demonstrators in Umuechem village, in Rivers State in southeast Nigeria, had been shot dead, victims of extrajudicial executions, and 500 houses razed in October 1990 when villagers protested at inadequate compensation for their land and environmental damage by a multinational oil company” The January 1991 findings of a judicial commission of inquiry into a police massacre. AIR 1993

50 years of commercial oil extraction in the Niger Delta has brought impoverishment, conflict, human rights abuses and despair to many. Pollution and environmental damage caused by the oil industry have resulted in violations of the rights to health and a healthy environment, the right to an adequate standard of living (including the right to food and water) and the right to livelihood for hundreds of thousands of people living in the Niger delta.¹⁰ The massive oil deposits have generated billions of dollars in revenues for the country yet the vast majority of people living in the oil producing areas live in poverty.

The regulatory system in the Niger Delta is deeply flawed and the laws and regulations that are supposed to protect people have failed them. Laws and regulations that require companies to comply with internationally recognized standards of “good oil field practice”, and laws and regulations to protect the environment are poorly enforced. The government agencies responsible for enforcement are ineffective and, in some cases, compromised by conflicts of interest.

A lack of accountability and access to justice have sustained a context where the same human rights violations occur again and again. Impunity for abuses of the environment and human rights remains entrenched. People are frequently denied access to the information they need to participate in decisions that affect their lives.

Amnesty International calls on the Nigerian government to:

- Strengthen the regulation of the oil industry, including with effective enforcement and appropriate sanctions;
- Ensure the social and human rights impact assessment of all oil and gas projects is made mandatory;
- Provide information to communities on the social and human rights impacts of oil operations, including impact on fisheries, agriculture, health and livelihoods;
- Provide meaningful access to regulatory and decision-making bodies for communities likely to be affected by oil operations;
- Ensure all new and existing regulation of the petroleum industry addresses the social and human rights impacts of the oil industry;
- Ensure adequate reparations, including compensation where appropriate, to victims of human rights violations.

5. END FORCED EVICTIONS

“During three days in April approximately 3,000 residents were evicted from Makoko in Lagos... The police reportedly used tear gas, and beat and kicked residents, including five young children, to force them from their homes.” AIR 2003

Since 2000, over 2 million people have reportedly been forcibly evicted from their homes in different parts of Nigeria.¹¹ Such evictions generally target marginalized people, many of whom have lived for years without access to clean water, sanitation, adequate health care or education. These evictions were carried out without adequate prior consultation, adequate notice and compensation or alternative accommodation. In 2006, Nigeria was named one of the three worst violators of housing rights by the Centre on Housing Rights and Evictions (COHRE), an international non-governmental human rights organisation.

In Port Harcourt, the capital of Rivers state and the most populous city in the Niger Delta, wide scale demolitions are planned along the city’s waterfronts, despite earlier state government promises that no evictions would take place. Thousands of people have already been forcibly evicted from their homes, and over 200,000 more remain at risk.

Amnesty International calls on the Nigerian government to:

- Immediately cease all forced evictions;
- Legislate and enforce a clear prohibition on forced evictions;
- Develop and adopt concrete and effective measures to ensure to the entire population a minimum degree of security of tenure, sufficient, at least, to protect them from forced evictions;
- Develop and adopt guidelines for evictions which should be based on the Basic Principles and Guidelines on Development-Based Evictions and Displacement and must comply with international human rights law;
- Ensure a genuine consultation with those affected, and, if any are to be evicted because there are no other feasible alternatives, to provide them with adequate and reasonable notice of any eviction, and adequate alternative accommodation;
- Respect the rights of all victims of forced evictions to an effective remedy, including access to justice and the right to reparations, which includes restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition.

6. PROTECT FREEDOM OF EXPRESSION

“Five prominent critics of the government were arrested in May and June... The five were held incommunicado in Abuja, the new capital, despite several orders by the Lagos High Court requiring the authorities to produce the detainees in court.”¹² AIR 1993

There has been a welcome reduction in the detention of political prisoners and an increase in the space for freedom of expression. However, human rights defenders and journalists continue to face intimidation and harassment. In addition, media offices continue to be raided, and journalists threatened and beaten by police and security forces.

In April 2010, three human rights activists were assaulted and detained by police in the city of Port Harcourt. Isaac Asume Osuoka, AkpoBari Celestine and Ken Henshaw from non-governmental organisation Social Action, were stopped in their car and detained by police after leaving their office. AkpoBari Celestine said he was repeatedly hit with the butt of a gun, poked with a barrel in his arms and legs and slapped in the face.¹³

Several journalists have been killed in suspicious circumstances in recent years. Bayo Ohu, the Assistant News Editor of The Guardian newspaper, based in Lagos, was shot dead in 2009. In October 2008, Eiphraim Audu, a radio journalist with the Nasarawa State Broadcasting Service, was shot by six unknown gunmen near his home in Lafia, central Nigeria. In August 2008, Paul Abayomi Ogundeji, a member of the editorial board of the newspaper Thisday was killed by unknown gunmen in Lagos. He was the second member of the Thisday editorial board to be murdered in two years. Godwin Agbroko, the chairman of Thisday's editorial board, was killed in similar circumstances in December 2006. A chief witness in the inquest to the death of Mr Ogundeji was also killed by unknown gunmen in her house in Ogun state in June 2009.

In failing to prevent, investigate and punish perpetrators of these attacks, the Nigerian authorities are failing in their duty under international law and standards to exercise due diligence to protect the victims' right to life and security of person.

Amnesty International urges the government to:

- Fully and promptly investigate all acts of intimidation or violence against human rights defenders and journalists, and ensure those responsible are brought to justice;
- Commit themselves explicitly and publicly to promoting respect for human rights and protecting human rights defenders; and acknowledge the legitimacy of the work of human rights defenders;

- Take effective action and measures to ensure that state officials at every level of the state apparatus, including law enforcement officials, respect the legitimacy of the work of human rights defenders and journalists, and allow them to carry out this work without hindrance or harassment;
- Ensure full implementation of comprehensive witness protection programs for the protection of individuals, including human rights defenders, involved in investigations or other proceedings against those accused of human rights violations.

7. STOP VIOLENCE AGAINST WOMEN

“Folake” was remanded in prison after accusing her former employer of rape. Although medical examination supported her case, she was charged with slander. The material evidence of the crime, handed over to the police, was later said to have disappeared. The alleged perpetrator was not brought to justice.” AIR 2006

Despite Nigeria’s ratification of the Convention on the Elimination of Discrimination Against Women (CEDAW) without reservation 25 years ago in 1985, CEDAW has not yet been incorporated into national or state legislation and its provisions are not implemented at state level. Violence against women remains pervasive, domestic violence, rape and other forms of sexual violence by both state officials and private individuals is widespread, and carried out with almost total impunity.

Amnesty International urges the government to

- Make a public commitment to prohibit all forms of violence against women and girls in law and in practice, and provide reparation and appropriate services for survivors of violence.
- Repeal laws that allow violence and discrimination against women to persist, and ensure that laws against those who commit acts of violence against women are enforced.
- Fully implement the provisions of CEDAW in both federal and state legislation.
- Fully implement the provisions of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, ratified by Nigeria in 2004.

8. PROTECT THE RIGHTS OF THE CHILD

“There were widespread protests against the sentencing to death of 12 young men in June by a Lagos State Robbery and Firearms Tribunal. One of the youths was subsequently revealed to have been 14 at the time of the offence. He alleged that he had been beaten in police custody.”

AIR 1989

Nigeria reflected the provisions of the Convention on the Rights of the Child in its Child's Rights Act (2003); however, the Act is yet to be enacted in 12 states of the federation. Violence against children, including child trafficking, child labour, sexual exploitation and harmful traditional practices continue to take place in Nigeria. In Akwa Ibom state, children believed to be witches continue to be subjected to torture and other cruel and degrading treatment by non state actors, sometimes resulting in death.

In 2005, the UN Committee on the Rights of the Child expressed their concern that existing legislation at federal, state and local levels, in particular the religious and customary laws, did not fully comply with the principles and provisions of the Convention on the Rights of the Child.

Nigeria has three young offender institutions; however, in most police stations and prisons, children are being held in cells together with adults. Amnesty International continues to receive reports that children and juveniles under the age of 18, some as young as 12 are tortured in police detention.

Amnesty International calls on the Nigerian government to:

- Ensure that the Child Rights Act (2003) is enacted and fully implemented in each of Nigeria's 36 states;
- Immediately bring all young offenders' institutions and other detention facilities into line with the standards recommended in the Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice;
- Give cases involving juveniles the highest priority and handle them within the shortest possible timeframe;
- Arrest, detain or imprison children only as a measure of last resort, in conformity with the law and for the shortest appropriate time;
- Avoid pre-trial detention of children where possible;

- Separate children in detention from adults, except where this would not be in the best interests of the child;
- Allow children in prison to maintain contact with their families through correspondence and visits;
- Ensure children have access to education whilst in detention.

9. PROTECT THE LIFE AND SECURITY OF PERSONS

“Nineteen people were killed and over 450 buildings destroyed, including churches and mosques. More than 600 people were arrested, including children nine years of age, and there were unconfirmed reports that detainees had been ill-treated in detention.” AIR 1988

Tens of thousands of people have been killed across Nigeria by civilians and security forces in politically-motivated and ethnically-religiously related attacks. Tensions over land and political influence have existed for years but the state has failed to take measures to prevent violent clashes and to protect life of individuals.

Amnesty International believes that many of the deaths could have been prevented if the state authorities responded appropriately.

Following incidents of religious or ethnic violence, hundreds of people have been rounded up by the police and security forces, but without sufficient evidence to try them.

In 1991, more than 900 alleged supporters of the late Alhaji Mohammed Marwa were detained without trial following rioting in December 1980 which was reported to have resulted in more than 4,000 deaths in Kano state. Of those detained on suspicion of involvement in the riots, more than 900 were reported to have been held without trial until October 1982 when then President Shagari ordered their release.¹⁴

In Jos, Plateau state, where thousands of people have been killed in repeated incidents of violence in 2001, 2004, 2008 and 2010, several inquiries have been established but their findings and recommendations have never been made public. Victims have not received redress or reparation, or compensation. Criminal investigation has been inadequate, with serious doubts over the quality of evidence against persons arrested. No one has been held accountable.

Amnesty International is concerned that the failure to take measures to prevent violent clashes and to protect life of individuals may lead to the adoption of measures and practices by the security forces that contributed to grave human rights violations.

More than 800 people, including 24 police officers, died in July 2009 during a week of clashes between members of the religious group Boko Haram and security forces in Borno state. Mohammed Yusuf, believed to be the leader of the Boko Haram sect, was killed in detention by Nigerian security forces on 30 July. A committee set up in August 2009 to “investigate the circumstances leading to the crisis including the alleged killing of the leader of Boko Haram and the slaughter or killing of over 17 Police officers,” has not made their findings public. In September 2010, people reported to be members of Boko Haram attacked Bauchi prison and freed inmates detained there, some of whom were believed to be members of Boko Haram.

Amnesty International urges the government to

- Protect the right to life and security of persons and prioritize the protection of women
- Investigate all cases of religious, inter-ethnic and communal violence promptly, independently and impartially and bring to justice those responsible in accordance with international standards for fair trial without recourse to the death penalty;
- Ensure that the relevant provisions of international and regional instruments are reflected in national legislation, including legislation criminalising torture, enforced disappearance and extrajudicial executions;
- Ensure that adequate systems and mechanisms are put in place alongside training and regulations on the use of force and firearms to make sure that security forces apply the relevant UN standards in their daily work. This includes ensuring that army and police officers have access to a differentiated range of equipment, including adequate self-protective equipment; and that they have adequate training on the use of a range of equipment for the differentiated use of force, and other tactical methods, including open hand techniques (using no equipment), to apply the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Ensure full implementation of comprehensive witness protection programs for the protection of individuals involved in investigations or other proceedings against those accused of human rights violations.

10. END DISCRIMINATION ON THE BASIS OF GENDER IDENTITY OR SEXUAL ORIENTATION

“In March, an Upper Sharia Court in Bauchi State, north-eastern Nigeria, acquitted Jibrin Babaji. He had been sentenced to death by stoning in September 2003 by a Sharia court in Bauchi, after being convicted of "sodomy".” AIR 2005

Human rights abuses against individuals suspected of same-sex sexual conduct or gender identity continues to take place in Nigeria. The Nigerian government has obligations under international human rights standards to promote, respect and protect the human rights of its population without distinction of any kind, including on the basis of sexual orientation or gender identity. However, Nigeria’s Criminal Code penalizes consensual same-sex sexual conduct between adults with 14 years’ imprisonment. *Shari’a* penal codes criminalize "sodomy", in some states with the death penalty. In 2008, several adult men and women were detained on charges of engaging in consensual same-sex sexual practices. The use of laws to imprison individuals for consensual same-sex relations in private or on the basis of their gender identity or expression is a violation of Nigeria’s international human rights obligations.

Homophobia and transphobia regularly results in violence against lesbian, gay, bisexual and transgender people and the authorities proved unable or unwilling to provide sufficient protection. In 2008, a pastor of a church in Lagos attended by many lesbian, gay, bisexual or transgender people had to flee the country after several newspapers criticized the church. The police harassed several of the church members. On 9 February 2009, at the 4th Session of the United Nations Universal Periodic Review (UPR), the Nigerian government stated that it was not aware of any ‘Lesbian, Gay and Transgender group’ in Nigeria.

Amnesty International calls on the Nigerian government to:

- Review all legislation which could result in the arrest, detention, prosecution and punishment of people solely for their sexual orientation or gender identity. This includes laws explicitly criminalizing consensual sexual conduct between people of same-sex or transgender individuals; public order legislation used as a pretext for prosecuting and punishing people solely for their sexual orientation or gender identity; and laws banning the “promotion” of homosexuality which can be used to imprison lesbian, gay, bisexual, same-sex practicing and transgender individuals and human rights defenders;

- Take all necessary legislative, administrative and other measures to prohibit and eliminate prejudicial treatment on the basis of sexual orientation, consensual sexual relations or gender identity at every stage of the administration of justice;
- Release immediately all individuals imprisoned solely on the basis of their sexual orientation or gender identity;
- Ensure that all allegations and reports of human rights violations based on sexual orientation, gender identity or assumptions as to individuals' engagement in consensual same-sex practices, are promptly and impartially investigated and perpetrators brought to justice;
- Ensure adequate protection of human rights defenders at risk because of their work on issues of sexual orientation and gender identity. Their work should be supported and they should be consulted on policy initiatives to respect, protect and fulfil the human rights of lesbian, gay, bisexual and transgender people.

1 Nigeria has also ratified the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Nigeria on 6 October 1967; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Nigeria on 28 June 2001; the Optional Protocol to the Convention Against Torture, ratified by Nigeria on 27 Jul 2009; the Convention on the Elimination of All Forms of Discrimination against Women, ratified by Nigeria on 13 June 1985; and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, ratified by Nigeria on 22 November 2004; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, ratified by Nigeria on 1 December 2004; the Convention on the Rights of the Child, ratified by Nigeria on 19 April 1991; the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, ratified by Nigeria on 27 September 2010; the African Charter on the Rights and Welfare of the Child, ratified by Nigeria on 23 July 2001; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, acceded to by Nigeria on 27 Jul 2009; the International Convention for the Protection of All Persons from Enforced Disappearance, acceded to by Nigeria on 27 Jul 2009; the Convention on the Prevention and Punishment of the Crime of Genocide, ratified by Nigeria on 27 Jul 2009; the Convention on the Rights of Persons with Disabilities, ratified by Nigeria on 24 September 2010; the Optional Protocol to the Convention on the Rights of Persons with Disabilities, ratified by Nigeria on 24 September 2010.

2 AIR 1977, AFR 44/018/2010

3 AIR 2003, AFR 44/018/2010

4 The Robbery and Firearms Tribunals, which were re-established in 1984, were each composed of a High Court judge, one military officer and one police officer. They had jurisdiction over cases of robbery in which the accused was alleged to have been armed or to have used person violence. There was no right of appeal to a higher court for those sentenced by the tribunals, in contrast to cases involving other serious offences such as murder which were tried before the High Court, from which appeals could be made to the Appeal Court and then the Supreme Court. Although the law governing the Robbery and Firearms Tribunals did not allow any appeal against their sentences, there was a "confirmation" process which was believed to vary from state to state. In some states the confirmation involved consideration of the sentence by a state Prerogative of Marcy Committee, and then a final decision on whether to execute from the state's military governor. This process was more akin to a clemency hearing than a judicial appeal to a high court, and Amnesty International believed it provided insufficient legal safeguards for people sentenced to death.

5 Amnesty International and LEDAP, Nigeria: Waiting for the hangman, AFR 44/020/2008; Amnesty International, Nigeria: Prisoners' Rights systematically flouted, AFR 44/001/2008

6 see AI public statement: Nigeria: Amnesty International, Human Rights Watch and Nigerian civil society groups call on state governments not to resume the execution of prisoners AFR 44.010.2010

7 See AI Public statement: <http://www.amnesty.org/en/news-and-updates/nigerian-governor-%E2%80%98threatens-execute-inmates%E2%80%99-ease-prison-congestion-2010-04-22>

8 AIR 1985, AFR 44/018/2010

9 Two military decrees were promulgated in late May which revoked 31 military decrees, including those which had suspended human rights provisions of the 1979 Constitution and removed the powers of the courts to challenge actions by the military government. Others were amended to restore jurisdiction to the ordinary courts in criminal cases. Decrees revoked included the State Security (Detention of Persons) Decree, No. 2 of 1984, which provided for the arbitrary and indefinite detention without charge or trial of any person deemed by the government to be a threat to the security or the economy of the country. It was used to detain hundreds of prisoners of conscience. Also rescinded were decrees which provided for special courts used to imprison and execute government critics after grossly unfair political trials. The Treason and Other Offences (Special Military Tribunals) Decree, No. 1 of 1986, provided for Special Military Tribunals headed by members of the military government. Between 1986 and 1998, these tribunals held treason trials which failed to meet nearly all standards of fair trial, resulting in a total of 79 executions of armed forces officers and the imprisonment of dozens of prisoners of conscience and possible prisoners of conscience. The Civil Disturbances (Special Tribunals) Decree, No. 2 of 1987, provided for Civil Disturbances Special Tribunals directly appointed by the military. Between 1987 and 1995, such tribunals conducted politically motivated and unfair trials, in 1995 resulting in the execution of nine Ogoni activists. Other decrees revoked were the Treason and Treasonable Offences Decree, No. 29 of 1993, which broadened the definition of treason, and the retroactive Federal Military Government (Supremacy and Enforcement of Powers) Decree, No. 12 of 1994, which prohibited legal action challenging any government action or decree. Among the decrees amended to restore the jurisdiction of the ordinary courts was the Robbery and Firearms (Special Provisions) Decree, No. 5 of 1984, which provided the death penalty for armed robbery. Jurisdiction in armed robbery cases was restored to the state-level High Court, with a right of appeal to the Court of Appeal and Supreme Court. More than 2,600 death sentences had been carried out under military governments since 1970, most of which were passed by Robbery and Firearms Tribunals, now effectively abolished.

10 For further information see Amnesty International report "Nigeria: Petroleum, Pollution and Poverty in the Niger Delta" (AFR44.017/2009)

11 Estimated to be over 2 million in 2006 by COHRE and SERAC

(<http://www.cohre.org/store/attachments/2006%20COHRE%20Housing%20Rights%20Awards%20-%20Media%20Kit%20Intl.doc>)

¹² Dr Beko Ransome-Kuti, President of the Committee for the Defence of Human Rights and Chairman of the newly formed pro-democracy coalition, Campaign for Democracy (CD), was arrested at gunpoint by some 200 riot police at his home in Lagos on 19 May. Two other CD members – Femi Falana, President of the National Association of Democratic Lawyers, and Baba Omojola – were also arrested that day. After filing legal actions to have the detainees produced before the High Court, human rights lawyer and CD member Chief Gani Fawehinmi was himself detained on 29 May. Olusegun Mayegun, President of the National Association of Nigerian Students, was arrested two weeks later. He was reportedly beaten and kicked at the time of his arrest and during interrogation, and deprived of food for 10 days in detention.

¹³ See <http://www.amnesty.org/en/news-and-updates/activists-assaulted-and-illegally-detained-nigerian-police-2010-04-09>

¹⁴ AIR 1983, AFR 44/018/2010

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW

www.amnesty.org

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