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Nigeria: Provisions of the 'Prevention of Terrorism Bill 2009' are incompatible with Nigeria's human rights obligations

Amnesty International is concerned that certain provisions of the Prevention of Terrorism Bill do not comply with Nigeria's international and regional human rights obligations, and is urging the Nigerian government to undertake not to pass the Bill into law without further detailed review and amendment.

The UN Security Council, of which Nigeria is currently a non permanent member, has repeatedly stated that: "States must ensure that any measure taken to combat terrorism comply with all their legal obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law" (Security Council Resolution 1456 of 2003, para.6)

Amnesty International recognizes that states have a duty to protect their population from attack; however, Nigeria must ensure that all anti-terrorism measures are enacted and implemented in accordance with international human rights and humanitarian law and the provisions of Nigeria's own constitution.

In a briefing issued to the National Assembly, Amnesty International analysed certain provisions of the Bill in the context of Nigeria's international and regional human rights obligations, particularly the African Charter on Human and Peoples' Rights, ratified by Nigeria in 1983, and the International Covenant on Civil and Political Rights (ICCPR), ratified by Nigeria in 1993. Amnesty International considers that key provisions of the Bill are incompatible with these obligations. Of particular concern are provisions relating to investigation, detention, and trial; provisions that are imprecise and overbroad; and provisions that are inconsistent with prescribed human rights in relation to due process, deprivation of liberty and fair trial, among others. Amnesty International highlighted the following as examples of provisions requiring revision:

- provisions that unlawfully restrict a range of rights such as freedom of expression, freedom of association, and freedom of assembly, by failing to adhere to the requirements of demonstrable proportionality.
- provisions that reverse the legal burden of proof in a manner that violates the presumption of innocence.
- provisions that provide for detention without charge of criminal suspects for up to two months.
- provisions that provide for 48 hours incommunicado detention by direction of law enforcement officers without explicit requirement that the person be brought before a judicial authority, have access to a lawyer, or that family members be notified of the fact and place of detention.
- provisions that violate the right to silence and not to be compelled to give evidence against oneself.
- administrative provisions that do not include meaningful access to effective legal remedies and procedural safeguards.

- o The provision of complete civil and criminal immunity to law enforcement officers who use force causing injury or death to any person where they have used “such force as may be necessary for any purpose, in accordance with this Act”, without exceptions for crimes under international law or other serious human rights violations.

Background

The Bill to Provide for Measures to Combat Terrorism and for Related Matters has passed its second reading in both houses of the National Assembly and is currently awaiting its third reading in both houses. The Bill would then be forwarded to the president to be signed into law. The President Goodluck Jonathan is reported to have stated in April 2010 that he wished the bill to be passed into law before the end of June 2010.