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PEN International, PEN Nigeria, Committee to Protect Journalists, and
International Publishers Association
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Submission on Nigeria

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Introduction

1. PEN International, PEN Nigeria, Committee to Protect Journalists, and the International Publishers Association welcome the opportunity provided by the Office of the High Commissioner on Human Rights to comment on the climate for free expression and human rights in Nigeria.
2. Nigeria is bound by several international commitments to human rights. The country acceded to the International Covenant on Civil and Political Rights in 1993, the Convention Against Torture in 2001, and the African Charter on Human and People's Rights in 1983. Nigeria is also bound, like all state parties of the United Nations, by Article 19 of the Universal Declaration of Human Rights that guarantees freedom of expression.
3. We applaud the passage of a landmark Freedom of Information act by Nigeria in 2011. We also acknowledge the government of Nigeria's embrace of the promise of free expression online, which has largely remained free and uncensored. However, government officials, including the Executive Branch, have utilized the Official Secrets Act to withhold or conceal legitimate requests for information under the Freedom of Information Act, and we are equally concerned about pending cyber-security legislation which may infringe upon the free expression rights of online users.
4. In 2009, before the 11th session of the Universal Periodic Review, the government of France recommended that Nigeria "ensure that freedom of expression is respected and that Nigerian journalists may take on their mission of providing information without suffering harassment." The government of Canada recommended that Nigeria respect "the rights of journalists to report, comment on and criticize government

policy freely and without fear.”

5. Despite these international commitments, accomplishments, and recommendations, Nigeria has not met its obligation to protect freedom of expression. Journalists and media workers continue to be threatened or killed for their work, and censorship of the arts remains rife, especially in states that have adopted Sharia law.

Persecution of writers and journalists

6. Since the review by the Human Rights Council in 2009, local, state, and federal government actors continue to threaten, prosecute, and imprison writers and journalists. Journalists have also faced significant threats from the militant Islamist sect Jama'atu Ahlis Sunna Lidda'awati Wal-Jihad, popularly known as Boko Haram.
7. Security forces, public officials, and insurgents consistently curtailed the freedom to report that the constitution of Nigeria endows to journalists. In 2012, the Committee to Protect Journalists (CPJ) documented 143 cases of press freedom violations, including obstructions, assaults, threats, arbitrary detentions, seizures of recordings or reporting equipment and murder. Security forces, including soldiers, police and the State Security Service (SSS), were responsible for 79 per cent of press freedom violations.
8. Boko Haram accounted for only 16 per cent of press freedom violations, but their unprecedented terrorist attacks against the offices of three newspapers in April 2012 and their ensuing threats against 14 news organizations caused widespread fear.
9. In 19 recorded killings since 1992, including nine cases where CPJ found evidence suggesting a possible link between the death and the victim's journalism, no conviction has ever been registered. Only one case resulted in an arrest, the 2 September 1998 killing of Okezie Amaruben, publisher of *Newsservice* magazine.

Arbitrary arrests and extrajudicial detentions

10. Journalists investigating the conduct of government security forces face arbitrary arrests, extrajudicial detentions, and warrantless search and seizure, particularly from the Joint Task Force (JTF), a special military unit tasked with combating Boko Haram. These actions would violate the Nigerian constitution, notably articles 35, subsections (2), (3),(4),(5), 36, subsection (1), 37 and 39, subsection (1).
11. For example, on 24 December 2012, the SSS summarily arrested journalists Musa Muhammad Awwal and Aliyu Saleh of the weekly *Al-Mizan* in the northern city of Kaduna in response to a front page story alleging the disappearance of 84 civilians suspected of being Boko Haram militants in the custody of the JTF. The SSS detained the journalists incommunicado for eight days without giving them notice of any offense in violation of the Nigerian constitution, especially Article 35, subsections (2), (3),(4) and Article 36, subsection (1). On 27 December 2012, SSS agents raided

the homes of the journalists without warrants and seized two laptops, a modem, and a camera in violations of Article 37. On 14 February 2013, the SSS re-arrested Musa Muhammad Awwal in another pre-dawn raid at his home. No reason was given and his residence was searched without a warrant.

Attacks and harassment

12. According to PEN International research, journalists frequently face physical assault and harassment from government and other actors, including the following examples from the period July to December 2012.
13. Kazeem Ibrahim, a journalist with *The Nation* newspaper, was reportedly attacked by the governor's security staff on 9 December 2012 as he attempted to cover the governor's birthday celebration. Ibrahim was trying to gain access to the Akwa Ibom State Government House in Uyo when security staff denied him entry. His request for more information, despite identifying himself and receiving an invitation to the event, prompted other security agents to beat him. According to the journalist, his assailants came from behind him, held his neck, and, pulling him to the ground, beat him until he was unconscious.
14. Abubakar Sadiq Isah, a reporter for the *Daily Trust*, was attacked by three unidentified men outside the Kwali town hall on 10 November 2012. The journalist was covering a public hearing when men began to beat him on his face, chest and back. Isah sustained no serious injuries from the attack, and reported that the attack had occurred in front of police officials. He said that upon intervening, the police took him to the police station but his attackers were not arrested. Isah filed a complaint with the police chief. According to reports on 15 November 2012, Isah believes the attack to be linked to threats he received in relation to an article published in the *Daily Trust* about the son of a Kwali official who was accidentally killed at a political rally. The council official reportedly telephoned Isah and warned him that the next time he returned to Kwali he would be attacked. The police chief denied any knowledge of threats made against Isah, despite the latter's insistence that he personally reported the threats to the police.
15. Ozioma Ubabukoh, a correspondent for *The Punch* newspaper, was reportedly harassed by SSS agents at his home in Trans-Ekulu on 15 December 2012. According to the journalist, men in plainclothes identifying themselves as SSS agents seized his telephone before ordering him to give them access to his home. According to reports, two of the men threatened to "rough him up" if he didn't cooperate. The men confiscated his laptop and detained him in his home until the early hours of the following morning. The men told Ubabukoh that their mission was to prevent him from filing a story about the Enugu state governor's apparent absence. The journalist had previously reported on the governor's alleged ill health.

Pressure from the government and self-censorship

16. In public statements, senior Nigerian officials have pressured journalists to refrain from reporting critically on the state's handling of the conflict with Boko Haram and the behaviour of security forces. For example, in a 13 September 2012 keynote address at the All Nigerian Editors Conference, Presidential National Security Adviser M. S. Dasuki urged media to play down reporting of Boko Haram attacks and refrain from embarrassing the government. "This is particularly important in the advent of social media and the Internet, when all your newspapers are being read around the world almost as instantly as you finish your columns," he said. "Bad press about Nigeria affects the ability of our nation's level of entrepreneurship and job creation."
17. Journalists with close contacts with Boko Haram have reported surveillance and intimidation from security services. For example, in March 2012 freelance journalist Ahmad Salkida reported that he was being monitored and had received repeated phone threats from suspected state security operatives. In July 2011, Salkida was forced to relocate his family from their home in Madiguri after receiving death threats from individuals identifying themselves as Boko Haram members, following the publication of a profile of Boko Haram's first suicide bomber in *Blue Print* magazine. In July 2009, the police arrested and detained Salkida for five days and threatened to execute him on accusations of fraternizing with Boko Haram after he published an article on the group's activities.
18. Self-censorship by its very nature is difficult to measure because it is rarely reported, and may be a subconscious response to perceived threat. However, such intimidation and threats against journalists are clearly aimed at creating a climate that deters others from free and open reporting.

Repressive laws threatening press freedom

19. Nigeria's criminal laws have a number of restrictive provisions which are used to silence journalists and suppress press freedom. State governments have used provisions of both the Criminal Code Act (applicable to Southern Nigeria) and the Penal Code (used in Northern Nigeria) to prosecute and jail journalists reporting on public corruption, or journalists who are criticizing official performance on issues of public interest.
20. For example, although a court of appeals ruled Nigeria's colonial-era sedition law to be unconstitutional in 1983, and the ruling was never appealed, the legislative branch of the government, the National Assembly, has not repealed the law. As a result, governments at federal and state levels have continued to invoke the law to silence the press on sensitive subjects. Articles 50, 51 and 52 of the Criminal Code prescribe a maximum punishment of three years imprisonment for sedition while articles 416-422 of the Penal Code prescribe a maximum punishment of seven years' imprisonment.

21. On 16 October 2007, Jerome Imeime, publisher of the private weekly *Events*, was charged with sedition and imprisoned over a story critical of the local governor. On 28 January 2008, Sam Asowata, editorial board chairman of the weekly *Fresh Facts* and Essien Asuquo Owoh, a newspaper distributor, were charged with sedition under Chapter 7 of the Criminal Code Act over a story alleging the involvement of the state governor in corruption.
22. On 12 February 2013, senior magistrate Ibrahim Bello in the northern city of Kano charged journalists Yakubu Musa Fagge and Mubarak Muhamad Sani of private *Wazobia FM* radio with inciting disturbance, defamation of character, intentional insult, injurious falsehood, obstructing public officers performing their duty, criminal conspiracy and abetting under articles 97, 114, 148, 392, 393, and 399 of the Penal Code. The charges were based on a 6 February 2012 radio program in which Yakubu criticized local officials for allegedly forcing a polio immunisation campaign onto the public and for intimidating Sani.

Threats and attacks by Boko Haram

23. Starting in 2011, Boko Haram issued a series of public statements threatening attacks on media organizations for allegedly misrepresenting its activities and for biased reporting. The group acted upon these threats, creating a dangerous climate of self-censorship.
24. Boko Haram claimed responsibility for the 22 October 2011 murder of Zakariya Isa, a reporter and cameraman with the state-run Nigeria Television Authority. Boko Haram spokesman Abul Qaqa issued a statement after the killing that accused Isa of “spying” on the group for Nigerian security services.
25. On 26 April 2012, Boko Haram carried out coordinated bombings on the offices of *This Day* in the capital Abuja and those of *The Sun*, *This Day*, *The Moment* in the northern city of Kaduna. On 1 May 2012, Boko Haram issued a public statement that contained threats against 14 local and international media outlets. On 6 September 2012, Boko Haram issued threats against local reporters of the U.S. government-funded international broadcaster Voice of America, accusing the station of “harming” their religion.

Government control over broadcasting

26. The federal National Broadcasting Commission, which was established by decree under the military junta of General Ibrahim Babaginda, retains unchecked powers over mandatory licensing and the regulation of content. While the Commission has granted licenses to radio stations on campuses of universities with journalism and mass communications departments, it has not granted a single license to an independent community radio station. The current President retains exclusive power

to appoint the Commission's members, who enjoy wide discretion in interpreting broad and vague violations to the Nigerian Broadcasting Code.

27. On 22 February 2013, the Commission summarily closed down private station Wazobia FM in the northern city of Kano, accusing the station of breaching a section of the Nigerian Broadcasting Code that prohibits the use of "language or scene likely to encourage or incite crime, or lead to disorder." The decision was based on a 6 February 2012 program in which presenter Yakubu Fagge criticized tactics of local officials in administering an anti-polio campaign in Kano. The Commission did not provide any specific examples of offending content and did not hold any hearings prior to suspension.
28. Allies of the government use their influence to silence critical news outlets with bribes or by pressuring state agencies and private companies to refrain from purchasing advertising spaces at these outlets. For example, in a November 2012 interview with *Africa Report*, former *Next* and *Next234* publisher Dele Olojede said that he was offered US\$20 million to call off investigations into public corruption at Nigeria National Petroleum Corporation. When he refused, "companies backing or doing business with *Next* were threatened with a government embargo," stated *Africa Report*. *Next* was forced to stop publishing in August 2011 after further pressure on its creditors.

Censorship in film and music

29. Nine of Nigeria's 36 states have adopted the Sharia penal code through actions by the state executive branch, including Zamfara, Kano, Sokoto, Katsina, Bauchi, Borno, Jigawa, Kebbi, and Yobe. The three states of Kaduna, Niger, and Gombe have partially adapted Sharia law. However, the Nigerian Constitution prohibits an official religion of the state under Article 10, and guarantees the freedom of religion under Article 38. Sharia criminal laws, including those related to alcohol, blasphemy, apostasy, and robbery, therefore conflict with the Constitution.
30. Censorship in Nigeria is administered by the National Film and Video Censors Board, the Nigerian Broadcast Commission and state censorship boards (including the Kano State Censorship Board). The National Film and Video Censors Board censored 4,600 films between 1994 and 2005, and outlawed films with themes involving cannibalism, lesbianism, and indecent, obscene, or explicit sexual scenes.
31. The Nigerian film industry, popularly called Nollywood, has especially been affected by censorship. This includes parts of the industry centered in Kano, also known as Kannywood. Nollywood produces some 1,000 films in a variety of languages and generates an estimated US\$250 million each year. Individual participants in the film industry, including actors, editors, and video sellers, must register individually with state censorship boards.

32. Although Sharia law is often invoked, most censorship cases are tried in state magistrate courts, and roving, mobile state courts may convict defendants within an hour without the benefit of legal representation. Some defendants receive prison sentences while others are fined.
33. In 2007, Kano state instituted a six-month ban on all film production, singing, and dancing in locally made films, and film creators were arrested or received prison terms after the discovery of a cell phone sex video involving a Kannywood actress. In March 2008 the home of Hausa film actress Zainab Umar was raided, and Umar and her sisters were accused of living “in a house without suitable relation.” They were detained without food and water, held overnight in a cell with men, propositioned by police, and warned not to speak with the media.
34. In December 2008, Director Rabi’u Ibrahim of HRB studio, a film company, was arrested and fined ₦80,000 for selling a DVD compilation in his shop with an “indecent cover” of the American television series *Desperate Housewives*. His shop was closed and sealed for three days. When the authorities came to re-open the shop three days later, they found the remaining copies of *Desperate Housewives* and a banned film entitled *Ibro Aloko*. Ibrahim was taken back to court and given another ₦60,000 fine.
35. Musicians have similarly been affected by censorship boards in states with Sharia law, and the government of Kano State has been especially restrictive, relying upon section 97 of the State Censorship Board Law of 2001 and its Cinematography and Licensing Regulations. On 9 April 2008, actor Adam A. Zango was imprisoned for producing and releasing an uncensored hip-hop video. The singer Ala was arrested in Kano on 4 July 2009 for his song *Hasbunallahu*, which was subsequently banned by a mobile court judge in Kano on 9 July 2009. Eleven songs were banned by the Kano State Censorship Board and were held to be obscene, confrontational, and immoral by a magistrate court on 18 June 2009. A three-night music festival at a cultural centre in Kano in northern Nigeria, KANFEST, was cancelled by the Kano State Censorship Board on 12 April 2010, according to the Associated Free Press.
36. However, music and film are not only censored in states with Sharia law. For example, the debut song of Nigerian music duo Zule-Zoo was banned by the Nigerian Broadcasting Corporation. (The ban actually helped make the song become a nationwide hit.) Similarly, Afrobeat musician Femi Kuti's nightclub in Lagos, the Shrine, was closed by government authorities on 10 June 2009, allegedly for his criticism of a lack of electricity in his neighbourhood of Lagos.

Recommendations and solutions

37. PEN International, PEN Nigeria, Committee to Protect Journalists, and the International Publishers Association make the following recommendations to the government of Nigeria:

- Refrain from arresting and imprisoning writers and journalists who are exercising their right to freedom of expression;
- Take concrete steps to address impunity in the killings of journalists, and end threats against writers and journalists who are exercising their right to freedom of expression;
- Hold to account federal and state security forces and officials involved in infringing fundamental rights of writers and journalists guaranteed by the Constitution;
- Actively protect journalists who are threatened by the militant Islamic sect Boko Haram, and allow journalists to investigate state action and human rights issues related to Boko Haram without suffering threats, intimidation, or arrest;
- End the use of Sharia law in state courts to censor film, music, and literature;
- Continue to allow the free and unfettered transmission of information online and through digital media;
- Repeal the colonial-era sedition law in accordance with the 1983 ruling by a court of appeals, specifically articles 50, 51, and 52 of the Criminal Code, and articles 416-422 of the Penal Code.