



NIGERIA

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 31ST SESSION OF THE UPR WORKING GROUP, OCTOBER-NOVEMBER 2018

FOLLOW-UP TO THE PREVIOUS REVIEW

Nigeria received a total of 219 recommendations during its previous UPR in 2013. Of these it accepted 184 and rejected 35 recommendations.

Torture and other ill-treatment

Nigeria accepted four recommendations addressing torture and other ill-treatment, including to criminalizing torture, ensure rehabilitation of victims and take measures to prevent torture and ill-treatment by the security forces.¹ In December 2017, President Buhari signed the Anti-Torture Act, which penalizes acts of torture and other cruel, inhuman and degrading treatment. While the Act prescribes a punishment of up to 25 years' imprisonment for torture offenders,² it makes no provisions for the rehabilitation of victims and legal assistance to victims is limited to support for making complaints.

Human rights violations by the security forces

Nigeria accepted six recommendations to prevent and reduce human rights violations by the security forces, including through the provision of training, and to investigate reports of such violations and hold those responsible to account.³ Despite efforts by the government, through the army-led Special Board of Inquiry and the Presidential Investigative Panel, to review compliance by the armed forces with human rights, the authorities are yet to hold them accountable for gross human rights violations. While the authorities have set up various investigations, none of their reports have been made public. Despite assurances by the Inspector-General of Police in 2015 and 2017 that the police would reform the Special Anti-Robbery Squad, no concrete steps have been taken to ensure that complaints are duly investigated and prosecuted. Nigeria is also yet to implement the recommendation to amend Police Force Order 237 which provides for much wider scope for the use of lethal force than is permissible under international law and standards.⁴

Nigeria accepted six recommendations to improve conditions in detention, to allow access for monitors, and to ensure that all detainees are brought before a court as soon as possible.⁵ However, in the northeast of the country, the military have continued to detain thousands of people between 2014 and 2017, without access to courts and often for up to two years. Although conditions in detention have improved, inmates continue to die.

¹ A/HRC/25/6, recommendations 135.69 (Switzerland), 135.72-74 (Canada, Hungary, Sweden).

² Section 9, Anti-Torture Act 2017.

³ A/HRC/25/6, recommendations 135.69-72, (Switzerland, UK, USA, Canada), 135.75 (Czech Republic), 135.79 (Ireland).

⁴ A/HRC/25/6, recommendation 137.7 (Spain).

⁵ A/HRC/25/6, recommendations 135.106 (Germany), 135.34. (Belgium), 135.106 (Germany), 135.108-109 (Czech Republic, France), 135.112. (UK), - 135.118 (Belgium).

Gender-based violence and gender equality

Nigeria accepted a number of recommendations related to gender-based violence and equality, including to implement the Gender and Equal Opportunities (GEO) Bill, and the Violence against Persons Prohibition (VAPP) Bill.⁶ The VAPP Bill was passed by the National Assembly in 2015, but is only applicable in the Federal Capital Territory (FCT). While some additional amendments are required to bring the Act fully in line with international standards, the VAPP Act has expanded the scope of protection available to women and girls in the FCT. In February 2018, Ogun state signed the VAPP Act into law. The GEO Bill, which is still pending before the National Assembly, contains provisions to prohibit discrimination against women and would override current discriminatory laws, policies, rules, directives and customs, and also sets out provisions to address harmful cultural practices that violate the rights of widows. The Bill will also address the systemic sexual exploitation of women and girls by men who abuse their positions of power and authority.⁷

Forced eviction

Nigeria accepted three recommendations on access to adequate housing and ending forced evictions.⁸ However, thousands of people continue to be at risk of forced evictions across the country with very few laws and safeguards in place to stipulate the process for lawful evictions.

Between 2015 and 2017, about 40,000 poor urban dwellers were forcibly evicted in Lagos State. In some instances, the state authorities ignored court orders declaring forced evictions unlawful. By contrast, in February 2017, the FCT authorities respected a court judgment to stop the eviction of hundreds of thousands of people in the Mpape community.

The impact of the oil industry on human rights

Nigeria accepted three recommendations to guarantee the right to a sustainable environment and to monitor the impact of the oil industry on human rights.⁹ If passed into law, the National Oil Spill Detection and Response Agency Act (NOSDRA) (Amendment) Bill, 2017 would empower the NOSDRA to efficiently record and report oil spills independently of the oil companies and provide it with effective enforcement powers to sanction oil companies.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

The Constitution of the Federal Republic of Nigeria 1999 provides that fundamental rights include only civil and political rights, as contained in Chapter 4 of the Constitution, which are fully enforceable in the courts. Amnesty International is concerned that economic, social and cultural rights, as provided for in Chapter 2 as Fundamental Objectives and Directive Principles of State Policy, are not enforceable in the courts.¹⁰

Nigeria is a party to several international human rights treaties; however, only treaties that have been domesticated as national legislation may have the force of law.¹¹ This constitutional provision prevents the implementation of many international treaties in Nigeria.

The Violence Against Persons (Prohibition) Act is only applicable in the FCT. It criminalizes several acts which are harmful

⁶ 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/

⁷ Amnesty International, Nigeria: Help end discrimination by passing Gender and Equal Opportunity bill <https://www.amnesty.org/download/Documents/AFR4458362017ENGLISH.PDF>

⁸ A/HRC/25/6, recommendations 135.130 (Ecuador), 135.132-133 (Malaysia, Turkmenistan).

⁹ A/HRC/25/6, recommendations 135.167-169 (Cuba, Maldives, Thailand).

¹⁰ Section 6(6)(c) of the Constitution

¹¹ Section 12 of the Constitution.

and discriminatorily to women and broadens the narrow definition of rape as contained in the Criminal and Penal Codes.

The Terrorism (Prevention) Act (as amended) 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.¹²

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Enforced disappearances, unlawful killings, torture and unlawful detention

Nigeria's constitution prohibits unlawful killings. The authorities are yet to amend Force Order 237 which provides 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.¹³ Amnesty International continues to document unlawful killings and extrajudicial executions, including in the context of the armed conflict in the northeast and law enforcement operations conducted by the military in other parts of the country. The government's decision to deploy the military to control internal public order situations has seriously undermined the role of the police and has led to unnecessary loss of lives.

In the southeast, the military has been deployed since 2015 to respond to a series of protests, marches and gatherings by members and supporters of the Indigenous People of Biafra (IPOB) who are seeking the creation of a Biafran state. Between August 2015 and October 2016, the security forces killed more than 150 IPOB members and supporters during non-violent gatherings. Amnesty International documented 11 such incidents, including in May 2016 when at least 60 people were killed when the security forces opened fire on IPOB supporters in several locations in the southeast.¹⁴ In September 2017, soldiers killed at least 12 IPOB supporters in Umuahia, Abia state.¹⁵ In 2017, the federal government banned IPOB.

In Zaria, Kaduna state, soldiers killed more than 350 supporters of the Islamic Movement of Nigeria (IMN), between 12 and 14 December 2015. The IMN supporters had blocked a section of the road in front of the IMN headquarters and refused to let a military convoy to pass. The state authorities later admitted to a judicial Commission of inquiry that they had buried 347 bodies in a mass grave two days after the massacre.¹⁶ The Commission recommended that the members of the military suspected of unlawful killings should be prosecuted,¹⁷ however, the Kaduna state government's white paper rejected most of its recommendations.¹⁸

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

¹² 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.

¹³ Nigeria had accepted a recommendation by Spain to review Order 237, A/HRC/25/6, paragraph 137.7.

¹⁴ Nigeria: 'Bullets were raining everywhere': Deadly repression of pro-Biafra activists
www.amnesty.org/en/documents/afro44/5211/2016/en/

¹⁵ Amnesty International Report 2017 – Nigeria.

¹⁶ 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/afro1/3883/2016/en/>

¹⁷ 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>

¹⁸ <https://kdsg.gov.ng/kaduna-releases-white-paper-on-zaria-clashes>

The police and the military routinely and systematically torture women, men and children, using a range of methods including beatings, shootings and rape.¹⁹

Armed conflict

Since 2014, the armed group Boko Haram has committed war crimes and crimes against humanity, killing at least 9,000 civilians, abducting thousands of women and girls and destroying towns and villages.²⁰

Since October 2017, 2,300 Boko Haram suspects held in Kainji military detention, Niger state, have been charged: 526 were discharged due to lack of evidence and 205 were convicted of involvement in Boko Haram and sentenced to prison terms.²¹

The military has also committed crimes under international law in their response to Boko Haram. In 2015, Amnesty International revealed that in the course of security operations against Boko Haram in north-east Nigeria, the military forces extra-judicially executed more than 1,200 people. They have also arbitrarily arrested at least 20,000 people, mostly young men and boys, and have committed countless acts of torture. Hundreds, if not thousands, of Nigerians have become victims of enforced disappearance by the military, and at least 7,000 have died in military detention as a result of starvation, extreme overcrowding and denial of medical assistance. Amnesty International considers that these acts, committed in the context of a non-international armed conflict, constitute war crimes for which military commanders bear both individual and command responsibility, and may amount to crimes against humanity.²²

Since 2016, at least 580 people have died at the Giwa barracks, including 29 children and babies. Their bodies were deposited at a mortuary in Maiduguri and buried in the city's cemetery.²³

The military Special Board of Inquiry, established by the Chief of Army Staff in June 2017 to investigate allegations of gross violation of human rights, cleared senior military officials of any wrongdoing, but found that the Giwa barracks were extremely overcrowded, with poor sanitation and insufficient ventilation, which resulted in the death of some detainees.²⁴

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.²⁵ However, the military had itself set up the camp, has a base next to it and is responsible for the protection of the camp.

Over the years, the authorities have announced a number of investigations into allegations of human rights violations, however none of the reports have been made public.²⁶ In February 2018, the Presidential Investigative Panel, set up to probe allegations of human rights violations carried out by the military, presented its report to the authorities.

¹⁹ Amnesty International, "Welcome to Hell Fire: Torture and other ill-treatment in Nigeria", September 2014, AFR44/011/2014;

²⁰ 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/>

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

²² 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

²³ Amnesty International annual reports 2015, 2016, 2017

²⁴ Amnesty International annual report, 2017

²⁵ Amnesty International annual report, 2017

²⁶ For example, the March 2014 Giwa Barracks attacks, two investigations into the Chibok girls abduction, the February 2016 and July 2017 investigations into sexual exploitation in IDP camps, Rann bombing and the Presidential Investigative Panel.

The death penalty

The death penalty remains mandatory in criminal law for a wide range of crimes and death sentences continue to be imposed throughout the country. Between 2014 and 2017, nine states expanded the scope of death penalty to punishment for kidnapping. In 2017 the Senate also passed a bill prescribing the death penalty for abduction and similar offences. By the end of 2017, there were 2,285 inmates on death row, many of them sentenced following unfair trials or after more than a decade in pre-trial detention.

Forced evictions

Between 2015 and 2017, the authorities have carried out large-scale evictions and demolition of the homes of thousands of people in Kaduna,²⁷ Lagos and Rivers²⁸ 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, the Lagos state authorities have forcibly evicted more than 40,000 people.²⁹

In February 2017, a High Court in Abuja declared threats of eviction illegal without the service of statutory notices. The Lagos state authorities 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.³⁰ In violation of this order, government agents went ahead with forced evictions in March and April 2017.

Oil pollution in the Niger delta

Every year hundreds of oil spills occur in the Niger Delta, caused by oil company equipment, operational faults and poor maintenance, as well as by sabotage and oil theft.³¹ The spills damage the environment, destroy the livelihoods of people living there and have an impact on the rights to health, food and clean water. 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.³²

In August 2015, President Muhammadu Buhari announced a clean-up of Ogoniland. However, progress on this has been limited.³³

²⁷ Amnesty International, Nigeria: About 2,000 People At Risk Of Forced Evictions This Christmas: Kaduna State Urban Planning And Development Authority Marks 190 Premises For Demolition. December 2015; Amnesty International, Nigeria: 92 homes destroyed, hundreds more at risk, August 2015, See: www.amnesty.org/download/Documents/AFR4423542015ENGLISH.pdf

²⁸ Amnesty International Report 2016/17

²⁹ Amnesty International, Nigeria: The human cost of a megacity: Forced evictions of the urban poor in Lagos, www.amnesty.org/en/documents/af44/7389/2017/en/

³⁰ Amnesty International, Nigeria: Lagos State High Court rules that forced evictions are cruel, inhuman and degrading. www.amnesty.org/en/documents/af44/5618/2017/en/. On 28 June 2017, Lagos State announced that it had filed an appeal against this decision.

³¹ 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>

³² 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.

³³ 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/af44/6411/2017/en/

Freedom of expression and assembly

The security forces continue to threaten, arrest and detain journalists, bloggers and human rights defenders.³⁴ Since 2016, Amnesty International has documented 12 cases across Nigeria in which the security forces have arrested and detained journalists and bloggers merely for expressing critical opinions on both conventional and social media platforms.

In 2017, Parliament debated a bill to regulate and restrict the work of NGOs which would seriously impact on the rights to freedoms of association and expression. 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".³⁵

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

The national human rights framework

- Amend the Constitution to guarantee economic, social and cultural rights as human rights and to make them enforceable in court;
- Bring the Terrorism Prevention Act into 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;
- Amend Section 33(2) of the Constitution and the Police Force Order 237 to ensure that these only allow the use of lethal force to protect life as permitted by international human rights law.

Forced evictions

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

Oil pollution

- 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 the resources necessary to investigate oil spills independently of the oil companies.

Freedom of expression and assembly

- Refrain from signing into law the Non-Governmental Organisations Regulatory Commission of Nigeria (Establishment) Bill (the NGO bill).

Enforced disappearance, extrajudicial executions and unlawful detention

- Allow independent international and regional human rights investigators full and free access to investigate allegations of extrajudicial executions and mass grave sites;

³⁴ See: Nigeria: Human rights defender facing intimidation: Maurice Fangnon, www.amnesty.org/download/Documents/AFR4467752017ENGLISH.pdf

³⁵ Amnesty International, Nigeria: NGO Bill threatens freedoms in Nigeria, www.amnesty.org/download/Documents/AFR4475902017ENGLISH.pdf

- Ensure that enforced disappearance constitutes a criminal offence in line with Nigeria's obligations under the Convention for the Protection of All Persons from Enforced Disappearance;
- Protect the rights of all detainees to communicate with and receive visits from lawyers, family members, and others in accordance with international human rights standards;
- Ensure that all detainees suspected of a crime are brought before a court of law within 24 or 48 hours where so required by Article 35 of the Nigerian Constitution, and in all cases within no more than a few days as required under Article 9(3) of the International Covenant on Civil and Political Rights, as interpreted by the Human Rights Committee.

Armed conflict

- Implement safeguards against human rights violations by the security forces, including arbitrary arrest, incommunicado and arbitrary detentions, rape and other forms of torture and other ill-treatment, enforced disappearance, and extrajudicial executions and other unlawful killings;
- Initiate independent, impartial, and effective investigations into all allegations of war crimes and possible crimes against humanity committed by the Nigerian military, members of the Civilian Joint Task Force and Boko Haram with the aim of bringing suspects to justice in fair trials;
- Close the detention centre at 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;
- Release all children, except for very young children if it is in their best interests that they be kept with their parents and steps are taken to ensure that their conditions of detention reach minimum standards.

The death penalty

- Declare a moratorium on all executions;
- Commute all death sentences to terms of imprisonment.