

NIGERIA

PORT HARCOURT
DEMOLITIONS:
EXCESSIVE USE OF
FORCE AGAINST
DEMONSTRATORS

AMNESTY
INTERNATIONAL



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Cover photo: A woman protests in front of armoured vehicles at Bundu waterfront, 12 October 2009. © Private

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1. INTRODUCTION

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 by a relative. The total number of dead remains unknown. A year later, no investigation has been carried out.

Lethal force and firearms should only be used when justified under international human rights law and standards and firearms should be regarded as potentially lethal in all circumstances and at all times. Nigeria's security forces used excessive force in Bundu waterfront community on 12 October, including through the use of firearms on protesters, contrary to Nigeria's international human rights obligations.

Amnesty International is calling on the government of Nigeria to set up an independent commission of inquiry to investigate the use of force and firearms by the police and the Joint Task Force (JTF) at Bundu waterfront; including investigating resultant deaths or injuries. The findings of the commission of inquiry must be made public; and those suspected of using excessive force should be prosecuted, in accordance with international fair trial standards and without recourse to the death penalty.



A crowd gathered at the entrance to the community, to protest against the enumeration and the proposed demolitions, women and children were singing and chanting songs. © Private

2. BACKGROUND

In Port Harcourt, the capital of Rivers state, located in Nigeria's oil rich Niger Delta, the government is planning large-scale demolitions of the city's waterfront settlements. Built on reclaimed land along the city's shoreline, there are more than 40¹ waterfront settlements in Port Harcourt and they are some of the most densely populated areas of the city, home to approximately 200,000 people.²

In July 2008, the governor announced that all waterfronts would be demolished as part of a programme of "urban renewal." However, no specific dates have been announced and the residents are living in a situation of considerable insecurity and uncertainty. The plans for the "urban renewal" of the waterfronts were developed without adequate consultation with affected communities and without their participation. Most residents are opposed to the demolitions.

Njemanze waterfront was demolished in August 2009 and it is estimated between 13,800 and 19,000³ people were forcibly evicted from their homes. These evictions were carried out without adequate prior consultation with the residents and without the provision of adequate notice, compensation or alternative accommodation and legal remedies. Thousands of people, including children, women and the elderly were left homeless and vulnerable to other human rights violations.



Rooftops in one of Port Harcourt's waterfront settlements. © Amnesty International

3. EXCESSIVE USE OF FORCE

‘Without any warning, the soldiers started shooting’

On the morning of 12 October 2009, government authorities accompanied by armed police and members of the Joint Task Force (JTF) – which comprises members of the army, navy, air force and police – went to Bundu waterfront community to conduct an enumeration (the collection of detailed information about a community, including buildings and residents) and assess the value of building structures earmarked for demolition.

An enumeration had been attempted a few days earlier, on 6 October, but residents had gathered together at the entrance of the community and the enumerators and security forces did not enter. The Community Vice Chairman, who was among those who had gathered to protest the enumeration, told Amnesty International he was physically restrained by the security officers and threatened with lethal force.⁴

Residents had learned of the second planned enumeration the day before and on 12 October a crowd gathered at the entrance to the community, next to the city’s prison, to protest against the enumeration and the proposed demolitions. Those present at the protest described it as peaceful, with many women and children singing and chanting songs. At around 8.30am, two Mobile Police (MOPOL) armoured personnel carriers approached the entrance of the community and parked next to the prison.

At 9am a convoy of approximately 10 police and army vehicles approached the prison junction.⁵ A small armoured vehicle leading the convey drove into the crowd.

“Without any warning, the soldiers started shooting. They first fired shots in the air and they drove their vehicles to the end of the road. Members of the community who were leading the protest told people not to run because, at the time, they believed that the government would not shoot to kill... The soldiers started shooting again but this time, they fired shots into the crowd. I was shot on my left thigh and the bullet is still lodged in my flesh... We tried to run away but there was nowhere to go. Soldiers kept firing and... charged towards the crowd and people were now running all over the place.” Tamuno Tonye Ama, a 34 year-old man who took part in the protest

Amnesty International interviewed 12 people who were shot and seriously injured by security forces in Bundu waterfront on 12 October 2009.⁶ 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 the morgue by a relative. Another man who was arrested that morning has not been seen by his family since. Napoleon Tokuiyiye, male, 23 years, was shot in his abdomen. He was on his way to work. He told Amnesty International: “I am half human. I can’t go to work, I can’t do anything. And I’m backbone of my family. I was going to work to feed four [people]. My children and brother’s children are stopped school [since the shooting].”



Napoleon Tokubiye, male, 23 years, was shot in his abdomen. He was on his way to work. © Amnesty International



Mark Bomowei was shot in the left side of his abdomen while on his way to work. © Amnesty International

Mark Bomowei was shot in the left side of his abdomen while on his way to work. A welder and father of one, he reached the junction where the demonstration was taking place just as the armoured car charged the crowd and opened fire:

"They were close, very close. I tried to run to the side and a shot came through my stomach... I was soaked with blood."

He was treated at a nearby hospital. He was unable to work because of his injuries and three days later he lost his job.



Jonathan Bokoko was shot in the back and the bullet exited through his chest, he has been unable to work due to his injuries. A 43 year old builder, Jonathan Bokoko lives with his wife, who was heavily pregnant at the time of the shooting, and their six children.

Jonathan Boko. © Amnesty International

Augustine Onwe was walking to work when the shooting started. He ran back towards his house, but before he could get there he was shot. Later, Augustine Onwe was taken to a clinic where he was operated on.

“I was shot on my left [buttock] and the bullet came out on my right. I was hit by a second bullet and it lodged in my abdomen. I fell down and crawled under [the] pavement [in a gutter] where I took cover.” Augustine Onwe stayed there until it seemed calm and then managed to crawl to a nearby house. “About three minutes later, a group of army men came to the house following the trail of blood I left when I was crawling. They asked the woman who was in her house... They threatened to shoot the woman but she refused to say anything.”



Augustine Onwe was walking to work when the shooting started.

© Amnesty International

As people ran away, members of the security forces followed them into the waterfront, shooting as they went. According to eyewitnesses, security forces continued right through the waterfront up to the water's edge. Amnesty International saw bullet holes in buildings and structures along the route that the security forces used.

Israel Okari, was shot in the left side of his back as he tried to help another person who had been shot. Victor Opiom, a 29 year old electrician was shot in his left arm. Prince Promise Akai and Fortune Allison were shot at the edge of the waterfront, far from the initial protest. They jumped into the water and swam away to escape.

Seventeen-year-old Belinda Joy Williams was shot in the leg while she was in her house. Her house is approximately 300 feet away from the edge of Bundu waterfront, across a creek, on the other side of the settlement from where the protest was taking place and where the security forces entered. The bullet broke her thigh bone and she had to wear a leg brace for several months.



Seventeen-year-old Belinda Joy Williams was shot in the leg..© Amnesty International

20 year old Linus Johns was in his house when he was shot in the abdomen by security forces. His house is on the edge of the waterfront, far from the initial protest. He was indoors when the security forces broke down his door and shot him. After approximately two hours neighbours were able to get to him and move him to a clinic. Linus Johns' spine was damaged when he was shot, he has been unable to regain the full use of his legs.

Despite clear evidence that the security forces opened fire, shot and injured several people on 12 October, the governor of Rivers State told Amnesty International:

“There was no firing, no shooting and no one was killed or injured on the day. In fact, nothing happened at all.”⁷

In a contradictory statement, which appeared to be an attempt to justify the use of force and firearms, the Rivers State Commissioner for Urban Development claimed that the government authorities were attacked.⁸ No other witnesses reported seeing anyone other than security officers carrying or firing weapons. No soldiers or police officers were injured.

4. USE OF “NON LETHAL” FORCE

“Where are the men?”

Several women at the protest in Bundu waterfront on 12 October 2009 were beaten by members of the security forces. Blessing Odum, 44 years old and mother of seven children, had been part of the protest:

“...Women decided to wear black on the day as a sign of protest and we stood at the prison road to stop the government from entering the community... We were more than 50 women. We were singing songs at the governor, asking him to leave us alone, we had reclaimed this land by ourselves. As we were signing, another armoured vehicle arrived with a group of soldiers in it. Then more armoured vehicles arrived with [more] soldiers in them. The soldiers started shooting. Everyone ran for life and shooting continued and teargas was fired... I ran away with another woman...Soldiers continued shooting for more than an hour. [When] we started to [go home to] check for our families, we were sighted by the police ... The police jumped off their vehicles and chased us. I was caught. The police slapped my face... I was dragged to the police car and was told to lie down. I was flogged by the police using a cable wire, baton sticks and a horse whip. I was hit all over my body... The police kept saying that we were trouble makers... During the flogging, the police poured teargas into our eyes. A woman who owns a restaurant close by was later to take us to her shop to help us clean our eyes but our eyes were very painful. We stayed at this restaurant for an hour. ... In the meantime, the police had broken into my shop.”

When she eventually got back to her house, her door had been broken and the drinks she sold at her café in Bundu waterfront had been taken. Amnesty International viewed damage to doors and locks in Blessing Odum’s cafe.

Blessing Odum’s daughter, Yingibi Odum, was with her sister in the cafe when the shooting started:

“My mum was out when I start to hear gunshot ... I had to close doors. We are afraid of flying bullets. We are lying on the floor, when we hear shouting at the door: “Where are the men?” [The security forces broke open the door and entered the cafe] They asked where is my dad? I said my dad is [travelling]. [The soldier] said I should give them soup. Give them fish. They started drinking our drinks. When I complained they said they would shoot me. One of them flogged my other sister with a whip...He asked her to bring drinks and she refused, she said they were for sale.... They collected 10,000 Naira. They scattered my father’s room. Break door. They stayed for three hours...”

Another woman who had been protesting, Patience Osirn, ran back to her house where her three children were on hearing the shooting:

“I tell them lie flat and stay like that ‘till after the sound stops. [The army men] they follow me and as I lock the door, they just smash the door open. The small one begins to vomit. Two [soldiers] came in and begin beating me. They are with guns.... My son says ‘leave my mum alone, don't beat her.’ One of the army men beat [my] son to keep quiet. He's 12 years old. They beat him a lot on his head and body with hand and boots... One of them carried [away] the television... They confiscated [my husband's] documents, stole our money. As to this day, that fear is still inside me.”



Patience Osirn and two of her children. © Amnesty International

It was reported that, that after the shooting, members of the security forces accompanied enumerators into the waterfront to continue with their work.

5. INTERNATIONAL STANDARDS ON THE USE OF FORCE AND FIREARMS

Lethal force and firearms should only be used when justified under international human rights law and standards and firearms should be regarded as potentially lethal in all circumstances and at all times. The excessive use of force by Nigeria's security forces in Bundu waterfront community on 12 October 2009, including the use of firearms on protesters, is contrary to Nigeria's international human rights obligations and commitments.

Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials make clear that firearms can only be used in very limited circumstances, for example when there exists a grave or imminent threat of death or serious injury and when strictly unavoidable in order to protect life."⁹ Principle No.3 also restricts the use of 'less than lethal weapons': "The use of 'less than lethal' weapons, such as tear gas or pepper spray, should be carefully controlled to minimize the risk of endangering uninvolved persons."

Principle No.12 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials clarifies that security forces must not use force to disperse lawful and peaceful assemblies. Principle No.14 states that, in the case of violent assemblies, security forces must only use firearms when less dangerous means are not practicable and only to the minimum extent necessary.¹⁰

Whenever the use of force and firearms is unavoidable, law enforcement officials must "exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved."¹¹ By misusing lethal force or using excessive force in a manner that violates the principles of necessity and proportionality, the police and other security forces can violate the prohibition against "arbitrary deprivation" of life.¹²

In addition to the right to life, the actions of the security forces also implicate other rights, such as the right of peaceful assembly. The right of peaceful assembly is protected by Article 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Nigeria on 29 July 1993;¹³ and by Article 11 of the African Charter on Human and Peoples' Rights, ratified by Nigeria on 22 June 1983.¹⁴

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.¹⁵ Section 6 of Police Force Order 237 instructs police officers that, in "riot"¹⁶ situations, "[a]ny ringleaders in the forefront of the mob should be singled out and fired on".¹⁷ However, intentional use of lethal force against particular individuals in a public order situation, based on suspicion of their role in organizing or coordinating public disorder, violates the right to life as guaranteed by Section 33 (1) of Nigeria's Constitution, article 6 (1) of the ICCPR, and article 5 of the African Charter on Human and Peoples' Rights.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions expressed his concerns about Police Force Order 237 in his report in January 2006: “These rules practically provide the police carte blanche to shoot and kill at will.” He therefore recommended that Police Force Order 237 “be amended immediately to bring it into conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.”¹⁸

6. CONCLUSION

Nigeria’s security forces used excessive force in Bundu waterfront community on 12 October, including through the use of firearms on protesters, contrary to Nigeria’s international human rights obligations.

Over the years Amnesty International has documented many cases of human rights violations by the security forces in Nigeria.¹⁹ Few officers are held accountable. In most cases there is no investigation into deaths in custody, extrajudicial executions and enforced disappearances.

Amnesty International is calling on the government of Nigeria to set up an independent commission of inquiry to investigate the use of force and firearms by the police and the Joint Task Force (JTF) at the Bundu waterfront.

The plans for the “urban renewal” of the waterfronts were developed without adequate consultation with affected communities and without their participation. Most residents are opposed to the demolitions. And the announcement by the Rivers state government that all waterfronts would be demolished has resulted in residents living in a situation of considerable insecurity and uncertainty.

It is vital that genuine consultation is undertaken with all potentially affected people when considering plans for the urban renewal, redevelopment, upgrading or demolition of the waterfronts.

7. RECOMMENDATIONS

To the Federal Government

- Set up an independent commission of inquiry to investigate the use of force and firearms by the police and the Joint Task Force (JTF) at Bundu waterfront on 12 October 2009; including investigating all deaths and injuries.
 - The findings of the commission of inquiry must be made public;
 - Those suspected of being responsible for the use of excessive force, including those with command responsibility, should be prosecuted in accordance with international fair trials standards and without recourse to the death penalty;
- Amend domestic law and regulations governing the use of force by police, including those sections of Police Force Order 237, which provide for more expansive grounds for the use of lethal force than those permitted under international human rights law and standards, and ensure that the new provisions are in line with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.
- Ensure that Section 33(2)(b) of the Nigerian Constitution, which provides for more expansive grounds for the use of lethal force than those permitted by international human rights law is amended to bring it into line with international standards.
- Ensure that families and dependants of victims of extrajudicial executions and excessive use of force are entitled to obtain fair and adequate reparation from the state, including financial compensation.

To the Rivers State Government

- Immediately cease all forced evictions;
- Adopt a moratorium on all evictions from and demolitions of the waterfront areas, until adequate safeguards are put in place to ensure that all evictions comply with international human rights standards.
- 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 and standards.
- Ensure genuine consultation with all potentially affected people when considering plans for the urban renewal, redevelopment, upgrading or demolition of the waterfronts. Ensure that evictions are only carried out as a last resort after all feasible alternatives to eviction have been explored. Procedural protections required under international human rights law should be in place, in particular the requirements on consultation, adequate notice and adequate alternative housing.

To Nigeria Police Force and the Joint Task Force (JTF)

- Cooperate fully with the investigation into the excessive use of force by JTF and police during the attempted enumeration at Bundu waterfront on 12 October 2009.
- Suspend those suspected of being responsible for the use of excessive force, including those with command responsibility, pending prosecution in accordance with international fair trials standards and without recourse to the death penalty;
- Review the role of police and JTF in assisting demolitions, evictions, enumerations and valuations and ensure personnel are not deployed to assist the administrative authorities in carrying out illegal evictions.

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 police officers apply the relevant UN standards in their daily work. This includes ensuring that police officers have access to a differentiated range of police 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.

To the Police Service Commission

- Establish procedures, develop expertise and procure equipment to facilitate professional investigations into unnecessary or excessive use of firearms, including for securing and examining (potential) crime scenes, ballistics and other forensic tests, and autopsies or medical examinations.
- Ensure that there are clear guidelines requiring officers to report abuses, and that officers at all levels of the chain of command know about these guidelines and are held responsible for enforcing such guidelines, with penalties imposed for failing to report, or covering up, police misconduct.
- Ensure that where reasonable suspicion exists of misconduct and/or a criminal offence involving acts of corruption by a police official, there is a thorough and impartial investigation and that where appropriate, perpetrators are subjected to disciplinary and/or criminal proceedings in accordance with international standards, as set out in the UN Code of Conduct for Law Enforcement Officials. The person under investigation should be suspended from active duty pending the investigation. Internal investigation and disciplinary procedures should ensure fairness and due process to both the complainant and police personnel.

ENDNOTES

- 1 The Rivers State government, UNHABITAT and non-governmental organisations estimates range between 41 to 51 waterfront settlements .
- 2 UNHABITAT estimates a minimum waterfront population of 200,000, Max Lock estimates 481,900. NGOs and CBOs estimates are much higher. Accurate information is not available.
- 3 UNHABITAT estimates that there are 276 structures in Njemanze waterfront, with 10 rooms per structure and 5-6 occupants per room, making a total population of 13,800. (UN Habitat, Evictions and Demolitions in Port Harcourt, Report of Fact-Finding Mission to Part Harcourt City, Federal Republic of Nigeria, 12-16 March, P26). Max Lock Consultancy, who conducted a study of the waterfronts in 2009, estimate that in high-density waterfront areas, such as Njemanze, there are 3445 persons per hectare and Njemanze at 5.57 hectares, had a population of 19,200 people; (Port Harcourt Waterfront Urban Regeneration Scoping Study, December 2009, Max Lock Consultancy Nigeria Ltd, P24-26).
- 4 On Sunday 11 October 2009, the Community Chairman, Deputy Chairman and two other community leaders were telephoned by police officials and invited to attend Moscow Road police station, where they were later detained. According to the Deputy Chairman, they were questioned about making "announcements against the government." The men were held overnight and released without charge around 7pm the following day.
- 5 Witness statements range from 10 to 30 vehicles.
- 6 Amnesty International delegates also saw their injuries, viewed their medical reports and x-rays and local medical personnel confirmed that they treated people for gun shot wounds that day.
- 7 Amnesty International interview, December 2009.
- 8 Amnesty International interview, April 2010.
- 9 Principle 9 states: "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."
- 10 Principle 12 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states: "As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14."
- Principle 13 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states: In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary."
- Principle 14 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states: "In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9."
- 11 Principle 5 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states:
"Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
- (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
 - (b) Minimize damage and injury, and respect and preserve human life;
 - (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
 - (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.
6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.
7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.
8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.
- 12 The Constitution of the Federal Republic of Nigeria (1999) recognizes the right to life (Section 33). The ICCPR, which Nigeria ratified in October

1993, provides that “every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life” (Article 6.1). Further, as provided by Article 4 of the ICCPR, states cannot derogate from their obligations under this provision, even “in time of public emergency which threatens the life of the nation”. Every person whose rights or freedoms are violated, has the right to a remedy (Article 2.3.a). The African Charter on Human and Peoples’ Rights, ratified in June 1983, also includes the right to life (Article 4). In addition, the Charter prohibits torture and other ill-treatment (Article 5) and provides the right to liberty and security of person (Article 6) as does the ICCPR.

13 International Covenant on Civil and Political Rights, Article 21: The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

14 African Charter on Human and Peoples’ Rights, Article 11: Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

15 For further information, see Amnesty International report Killing at Will: Extrajudicial executions and unlawful killings by the Nigeria Police Force, AFR44/038/2009.

16 “Riot” is described as a situation in which “12 or more people must remain riotously assembled beyond a reasonable time after the reading of the proclamation.”

17 Police Force Order 237 (3) (c) “When necessary to disperse rioters or to prevent them from committing serious offences against life and property; N.B. remember that 12 or more people must remain riotously assembled beyond a reasonable time after the reading of a proclamation before the use of firearms can be justified; (6) Fire should be directed at the knees of the rioters. Any ring-leaders in the forefront of the mob should be singled out and fired on. Only the absolute minimum number of rounds necessary to suppress the riot should be used..

18 Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Nigeria, 7 January 2006. E/CN.4/2006/53/Add.4

19 The Amnesty International report Killing at will: Extrajudicial executions and other unlawful killings in Nigeria can be viewed here:

<http://www.amnesty.org/en/library/info/AFR44/038/2009/en>

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

www.amnesty.org

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