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Nigeria: “Pragmatic policing” through extra-judicial executions and torture

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Briefing to the National Assembly on the failure to protect Nigerians from human rights violations by the Nigerian police and security forces

[We] urge the Federal government to take seriously and act decisively in defence and protection of the interest of Nigerians wherever they reside in the world

[We] urge the Federal Government to derive a system of taking good care of her citizens both within and outside the country and to come up with a deliberate plan of action that will turn around the unpalatable living conditions in this country.

House of Representatives, 17 April 2008.

Introduction

Amnesty International welcomes the adoption by the House of Representatives of the motion ‘Upsurge in cases of Armed Robbery and Shooting of Nigerian in South Africa’, on 17 April 2008 and the adoption by the Senate of a motion ‘Armed Robbery and Violent Attacks on Nigerian in South Africa: Time for Decisive action’ on 23 April 2008. Extra-judicial executions and torture are a serious concern for Amnesty International in many parts of the world, including Nigeria.



Nigeria Police Force, Photo © AI

In 2002, Amnesty International published the report ‘Security Forces: Serving to protect and respect human rights?’.¹ The report highlighted numerous and regular human rights violations carried out by the Nigerian police and armed forces, ranging from extra-judicial executions to deaths in custody, torture and other ill treatment of suspects. The organization called on the

¹ Amnesty International, AFR 44/023/2002, Nigeria: Security forces: Serving to protect and respect human rights? (19 December 2002)

Federal Government to ensure that law enforcement officers do not carry out extra-judicial executions, nor resort to torture or inflict cruel, inhuman or degrading treatment on detainees under any circumstance. Several years after the publication of the report, little has changed.

The police continue to execute suspects extra-judicially and torture is widespread in police custody. Detention in police lockups is intended to be for a short time, however, Amnesty International heard from inmates who were held in police cells for protracted periods. "I was supposed to stay there three days, but I was held up to four months. I was not given access to talk to my lawyer. There was a lot of intimidation," one man told Amnesty International.² Another man told Amnesty International: "The state CID [Criminal Investigation Department] wanted to kill me, they beat me, they killed people beside me and shot some, so I confessed."³

The Nigerian police tend not to bring suspects of crimes before a judge within the constitutional 24 or 48 hours, but detain them for longer periods of time in police custody. Often no one has access to those in police detention; sometimes families are not aware that their relatives are in police custody.

National, regional and international obligations

Extra-judicial executions and torture are prohibited in Nigeria. Article 33 of the Nigerian Constitution guarantees the right to life; article 34 guarantees the right to dignity of human person and states that *no person shall be subject to torture or to inhuman or degrading treatment*. Nigeria has ratified several international and regional instruments, which prohibit extra-judicial executions and torture including the African Charter on Human and Peoples' Rights, on 22 June 1983; the International Covenant on Civil and Political Rights (ICCPR), on 29 October 1993; and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), on 28 July 2001. Nigeria became a member of the United Nations in 1960 and is obliged to comply with the UN Universal Declaration of Human Rights.

The right to life is fundamental and absolute. The right to life and the prohibition of torture and other ill-treatment must be respected at all times and for everyone, including persons suspected of crimes and those in police custody. Furthermore, Article 10(1) of the International Covenant on Civil and Political Rights (ICCPR) states: "*All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*"

Extra-judicial executions

The Nigeria Police Force and the State Security Service (SSS) continue to commit human rights violations with impunity, including extra-judicial executions. Extra-judicial executions are a violation of the right to life, guaranteed in Article 33 of the Nigerian Constitution.

The Nigerian police execute detainees. Moreover, the police execute people for refusal to pay bribes or during road checks, saying they are criminal suspects. Other cases include the shooting during arrest of suspected armed robbers. On 4 September 2007, Inspector

² Amnesty International interview, July 2007, Kuje prison.

³ Amnesty International interview, July 2007, Kano central prison.

General of Police Okiro made public in his address “100 Days of Pragmatic Policing in Nigeria” that between June and August 2007, some 785 suspected armed robbers were killed in shoot-outs with police.⁴ The Network on Police Reform in Nigeria (NOPRIN) observes that “Whatever the explanation, extra-judicial executions appear to have become an acceptable tool of policing.” NOPRIN states it is hard to quantify the number of people killed by the police as “the police do not keep adequate records of encounter and other killings committed by its personnel or that figures of police killings are deliberately manipulated to produce artificially low statistics of killings.”⁵ The NGO LEDAP has documented cases of extrajudicial executions and the impunity for these executions for several years. Its 2004 report showed an impunity rate of 100 percent: none of the almost 350 reported incidents in 2004, which resulted in almost 3,000 deaths, were investigated.⁶

In 2005, former President Obasanjo acknowledged that the extra-judicial execution and killing of suspects and innocent citizens by police was widespread. In October 2007, newspapers reported that the Commissioner of Police in the Federal Capital Territory ordered his policemen to shoot on sight suspected armed robbers caught in the act.⁷

The UN Special Rapporteur on extra-judicial, summary or arbitrary executions, in a report following his visit to Nigeria in 2005, also documented the practice of extra-judicial executions: “*There is reason to doubt that the 2,402 armed robbers killed since 2000 were in reality all armed robbers, much less that they were all killed in shoot-outs. Armed robbery as such should be removed as a capital offence.*” And: “*Despite the fact that the scourge of armed robbery plagues much of Nigeria, the label of “armed robber” is very often used to justify the jailing and/or extrajudicial execution of innocent individuals...*”⁸

On 27 March 2008, the Special Rapporteur on extra-judicial, summary or arbitrary executions observed little had changed, saying: “*Unfortunately, it seems like business as usual with the Nigerian police continuing to get away with murder*” and “*Patterns of human rights violation that I witnessed in 2005 continue today.*”⁹

Ledap publication: Impunity in Nigeria, 2005.

The National Human Rights Commission (NHRC) stated in its report ‘State of Human rights in Nigeria 2005-2006’: “*Prolonged years of military in Nigeria entrenched a culture of disregard for human life, particularly on the part of security and law enforcement agencies. This attitude has largely remained unchanged, seven years after the advent of democracy. Cases of extra-judicial, summary and arbitrary executions have been persistently recorded across the country.*”¹⁰

⁴ Nigeria Police Force, *IGP Executive summary of achievement from the month of June to August 2007: 100 Days of Pragmatic Policing in Nigeria*, 4 September 2007.

⁵ NOPRIN, *Criminal Force?: An Interim Report On The Nigeria Police Force*, December 2007.

Human Rights Watch estimated in November 2007, that the Nigeria Police Force might have killed 10,000 people between 2000 and 2007. See: Human Rights Watch, *Nigeria: Investigate Widespread Killings by Police*, 18 November 2007.

⁶ LEDAP, *Impunity in Nigeria: Report of Extra judicial executions in Nigeria - 2004*. Lagos: Legal Defence and Assistance Project (LEDAP), 2004

⁷ Thisday, *Nigeria: Robbers - FCT CP Orders Shoot-at –Sight*, 24 October 2007.

⁸ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, of a mission to Nigeria*, E/CN.4/2006/53/Add.4, 7 January 2006.

⁹ UNHCHR, *Un Expert On Extrajudicial Executions Says Nigeria Must End Extrajudicial Executions* (28 March 2007)

¹⁰ NHRC, *State of Human Rights in Nigeria 2005-2006*.

Over the years Amnesty International has documented many cases of human rights violations by the security forces in Nigeria. The military are frequently involved in extra-judicial executions and other human rights violations, particularly in the Niger Delta, where they carry out law enforcement functions. The use of excessive force by the military when dealing with clashes is a frequent occurrence, often resulting in the death of bystanders, for example in Port Harcourt, Rivers State, in August 2007; Odioma, Bayelsa State, in February 2005; at the Ugborodo community members demonstration at the Escravos oil terminal, Delta State, in February 2005; Zaki-Biam in Benue State, in 2001 and Odi in Bayelsa State, in 1999. In all of these cases no action is known to have been taken to bring the suspected perpetrators of these human rights violations to justice.¹¹

The National Assembly seems to be aware of this endemic problem. In 2005, the National Assembly started debating 'A Bill For Act To Establish The Police Public Complaints Bureau With Powers To Investigate, Inquire, Recommend And Prosecute Cases Of Extra-Judicial Killings, Human Right Abuses, Unlawful Extortion By The Police; And Other Related Matters'. This bill was withdrawn by the end of 2005. In 2008 a bill with the same name was introduced.

UN Code of Conduct for Law Enforcement Officials

Article 3 of the UN Code of Conduct for Law Enforcement Officials states that "(l)aw enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty." The commentary to the Code of Conduct notes that "(t)he term "law enforcement officials", includes all officers of the law...who exercise police powers". The commentary notes explicitly that the Code of Conduct is applicable to military authorities and to state security forces where they exercise police powers.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Nigerian Police frequently use torture while interrogating suspects, despite section 34 of the Nigerian Constitution, article 7 of ICCPR and the Convention against Torture. In a study published in 2000 the Nigerian Human Rights Commission and the NGO Centre for Law Enforcement (CLEEN) stated that almost 80 percent of inmates in Nigerian prisons claim to have been beaten by police, threatened with weapons and tortured in police cells.¹² Torture and other ill-treatment are prohibited at all times, in all circumstances. No exceptional circumstances – including



A prison inmate who says he was tortured by the police.

Photo © AI

See also the following Amnesty International publications: AFR August 2007), AFR 44/005/2006 Nigeria: Odioma – One year aft February 2006), AFR 44/006/2005 Nigeria: Fears of human rights violations after troops deployed in Bayelsa State, Niger Delta (8 March 2006), AFR 44/022/2005, Ten years on: injustice and violence haunt the oil Delta, (3 November 2005), AFR 44/027/2004 The security situation in Rivers State: an open letter from Amnesty International to Peter Odili, State Governor of Rivers State (15 September 2004), AI Index AFR 44/006/2001 - Nigeria: Reported reprisal killings by government soldiers must be investigated (24 October 2001). On 15 May 2008, a Chief magistrate Court in Abuja ordered the Inspector General of Police Okiro, to investigate the extra-judicial executions in Odi town and the Tiv nation in Benue State between 1999 and 2001.

CLEEN, *Police Community Violence in Nigeria*. Lagos: Centre for Law Enforcement Education and National Human Rights Commission (CLEEN & NHRC), 2000.

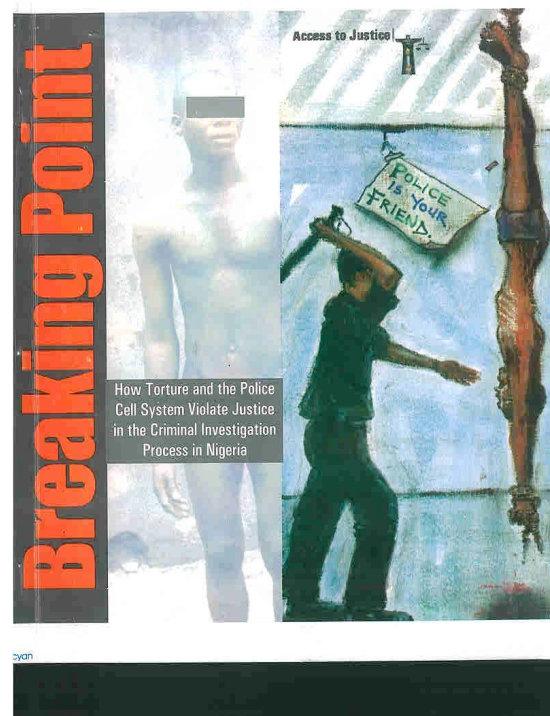
internal instability, any other public emergency, war or threat of war – can be invoked as a justification of torture.

In its report ‘Prisoners rights systematically flouted’¹³, Amnesty International documented many cases of suspects who were tortured by the police. Amnesty International heard accounts and in numerous cases saw scars, bruises, and dried blood, which indicated beatings serious enough to require medical care – care that many inmates did not receive. One man in Kano Central prison told Amnesty International that police had broken one of his legs while he was in their custody. “They broke it with a stick in the CID. They broke it for me to say what I have not done.”

Research of national and international NGOs as well as of the UN Special Rapporteurs confirm the findings of Amnesty International. In November, the UN Special Rapporteur on torture reported that torture and other ill-treatment in police custody are widespread and systemic, particularly in CID custody, stating “*Torture is an intrinsic part of the functioning of the police in Nigeria*” and “*at CID detention facilities, it was a challenge to find a detainee that had not been ill-treated.*”¹⁴

Amnesty International has found that the Nigerian police force and security forces commit rape in many different circumstances, both on and off duty.¹⁵ Rape is at times used strategically to coerce and intimidate entire communities. This is particularly prevalent in the Niger Delta where rape has been committed by security forces deployed by the Federal Government. In some cases women were held for several weeks in sexual slavery in military barracks and repeatedly raped. In almost every case investigated by Amnesty International, the perpetrators acted with impunity. The Nigerian non-governmental organizations Civil Liberties Organization (CLO) and Prisoners Rehabilitation and Welfare Action (PRAWA) identified rape and other forms of sexual violence, or the threat of such violence, as a method of torture used by the police in order to extract confessions or other information.¹⁶

The Nigerian government is aware of the use of torture but cites challenging circumstances in the country as an explanation. For example in September 2007 the former Minister of Foreign Affairs Ojo Maduekwe wrote to the UN Special Rapporteur on Torture: “*While the Government does not intend to justify torture and ill-treatment under any circumstances, it is hoped that the*



Access to Justice publication: ‘Breaking point’

Amnesty International (2008), *Nigeria: Prisoners' rights systematically flouted*, AFR 44/001/2008.

Special Rapporteur On Torture Concludes Visit To Nigeria, Hr/07/35, 12 March 2007.

Amnesty International (2006), *Nigeria: Rape the silent weapon*, AFR 44/020/2006.

CLO, *Climate of impunity – a report on the use of torture by the Nigerian Police*, Lagos: Civil Liberties Organisation (CLO), October 2005; and PRAWA, *Women Prisoners And Mothers With Babies In Prison In Nigeria*, 2004.

*international community understands the enormous challenges faced by law-enforcement agencies in a developing nation as our own.... [such as] the lack of an effective complaints mechanism; the unsatisfactory state of detention facilities; the under-resourced and over-stretched criminal justice system; Sharia Law and corporal punishment, etc.*¹⁷

In a meeting with Amnesty International in July 2007, senior police officials at the federal headquarters of the Nigeria Police Force confirmed that they have received reports of torture and that they are addressing these “unconventional” ways of interviewing.¹⁸ In practice, any actions taken by the Nigeria Police Force have failed to end the use of torture in the interrogation of suspects. Far from taking effective measures to end the frequent use of torture, the government has allowed widespread torture to be carried out with impunity; as the Nigerian National Human Rights Commission highlights in its report on the state of human rights, “...*the Nigerian Army, the Nigeria Police Force and other law enforcement agencies commit the act of torture with impunity.*”¹⁹ Moreover, in many cases, confessions extracted by torture are used as evidence in court, contrary to international standards.

There is no mechanism to prevent torture and other ill treatment in police custody. Moreover, suspected torturers are not brought to justice but continue to commit their crimes with impunity.

Confessions coerced through torture

If a suspect makes a statement under pressure, threat or torture, it must not be used as evidence in court. The prosecutor has a responsibility to prove that the statement has been made voluntarily. Section 28 of the Evidence Act, Laws of the Federal Republic of Nigeria, is clear on the prohibition of using information extracted from the suspect by means of threats, promises or force, stating: “*A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the court to have been caused by any inducement, threat or promise*”

In its publication ‘*Breaking point*’, the NGO Access to Justice found that victims of police torture are, almost without exception, very poor people. Access to Justice urges the judiciary to react, as “*the fight against police torture will remain weak unless the judiciary use their legal powers.*”

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak (Mission to Nigeria), 22 November 2007 <http://daccess-ods.un.org/TMP/7259748.html> (accessed 13 May 2008)

Amnesty International Interview, July 2007, Abuja.

NHRC, *State of Human Rights in Nigeria 2005-2006*.

Recommendations

Amnesty International is calling on the National Assembly to carry out its Constitutional responsibilities by taking steps to ensure the human rights of all Nigerians are respected, promoted, protected and fulfilled. As a first necessary step, the National Assembly should ensure the quick passage into law of important criminal justice bills currently pending before the National Assembly.²⁰

The National Assembly should also use its leadership and authority to ensure that all suspected perpetrators of human rights violations in Nigeria are held to account. Amnesty International calls on the National Assembly to discharge its Constitutional responsibilities by ensuring:

- The domestication of the UN Convention against Torture in Nigeria;
- The ratification of the Optional Protocol to the UN Convention against Torture, requiring the establishment of an independent body to conduct unrestricted visits to all places of detention to monitor the conditions of detention and treatment of detainees;
- A reform of the police code of conduct, bringing it in line with international human right standards;
- The prompt, independent and impartial investigation of all cases of human rights violations; and appropriate reparation;
- The establishment of an official register on all arrests and detention of suspects, which records the name of the suspect, the reason for the arrest, date and time of the arrest, date of the first appearance before a judge, and identity of law enforcement officials concerned;
- The establishment of a credible mechanism responsible for receiving reports from the public concerning police behaviour and providing information about the progress of complaints;
- Adequate reparation for victims of human rights violations (or in the case of a violation resulting in death or enforced disappearance, their families).

The National Assembly should also call on the Inspector General of Police to:

- Publicly inform his officers that torture and extra-judicial executions are illegal and that suspected perpetrators will be suspended and brought to justice;
- Make it clear to his officers that they must not follow unlawful orders and will not be subject to criminal or disciplinary proceedings for refusing to carry out an unlawful order or for reporting such an order;
- That every criminal suspect is brought before a judge within the constitutional period of 24 or 48 hours;
- Instruction his officers that arrest and detention must be carried out in strict accordance with international human rights law;
- Take disciplinary measures against all police officers who are involved in torture.
- Suspend all police officers who are alleged to have carried out torture or other human rights violations;
- Train and educate his officers about their obligations under international human rights law.

Several bills are pending before the National Assembly, including the Police Act Amendment Bill; the National Human Rights Commission Act Amendment Bill; the Administration of Justice Commission Bill; the Criminal Justice (Victims Remedies) Bill; the Nigerian Community Service Bill; the Prison Act Amendment Bill; the Administration of Criminal Justice Bill, the Legal Aid Act (Amendment) Bill; Evidence Act (Reform) Draft Bill; the Bill on Reform of Discriminatory Laws; the Bill for an Act to Establish the Police Public Complaints Bureau with Powers to Investigate, inquire, Recommend and Prosecute cases of Extra-Judicial Killings, Human Rights Abuses, Unlawful Extortion by the Police and Other Related Matters.