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议程项目3

促进和保护所有人权——公民权利、政治权利、
经济、社会及文化权利，包括发展权

对尼日利亚的访问

法外处决、即决处决或任意处决问题特别报告员阿涅丝·卡拉马尔的
报告* **

概要

法外处决、即决处决或任意处决问题特别报告员在报告当中介绍了其于
2019年8月19日至9月2日访问尼日利亚的情况。

* 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。本报告附录不译，原文照发。

** 本报告逾期提交，以反映最新动态。



Annex

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnès Callamard, on her visit to Nigeria

I. Introduction

1. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnès Callamard, visited Nigeria from 19 August to 2 September 2019. She examined violations of the right to life committed by State and non-State actors, and actions taken by the State to hold perpetrators accountable. She considered the State security strategy and responses at the federal and state levels to allegations of arbitrary deprivation of life. The Special Rapporteur examined the specific situation of women and of lesbian, gay, bisexual, transgender, queer and intersex persons and, as part of her gender-sensitive approach to carrying out her mandate, included a focus on the criminalization of abortion in Nigeria.

2. The Special Rapporteur expresses her appreciation to the Government of Nigeria for its invitation. In particular, she thanks the Ministry of Foreign Affairs and the Permanent Mission of Nigeria to the United Nations Office and other international organizations in Geneva for their cooperation before and during the visit. She thanks the officials she met for their availability and openness to discussion. She also thanks the United Nations Human Rights Adviser in Nigeria, the United Nations Resident Coordinator for Nigeria and the United Nations country team for their invaluable support.

3. During her visit, the Special Rapporteur conducted meetings in Abuja, Jos, Lagos, Maiduguri, Makurdi and Port Harcourt. She met with the Permanent Representatives of Nigeria to the United Nations Office and other international organizations in Geneva and in New York; the Deputy Permanent Representative of Nigeria to the African Union; and representatives of the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Interior, the Ministry of Defence, the Ministry of Women Affairs and Social Development, the Department of State Services, the National Commission for Refugees and Internally Displaced Persons, the National Human Rights Commission and the State Emergency Management Agency. In addition, she met with the National Security Adviser, the Director of Legal Services of the Federal Ministry of Defence and the Commander of Operation Safe Haven. She held meetings with authorities at the state level, including with the Security Adviser to the Governor of Benue State; the Commissioner for Defence of Benue State; the Commissioner for Police and the Director of State Security Services of Benue State; the Attorney General of Plateau State; and the Governor of Rivers State.

4. The Special Rapporteur met with representatives of the diplomatic community; international, regional and national human rights organizations; those working for human rights at the grass-roots level; members of religious communities; media workers; activists; lesbian, gay, bisexual, transgender, queer and intersex individuals; internally displaced women, men and children; victims and survivors of human rights violations and abuse; and family members of persons had been killed and eyewitnesses to those killings.

5. The present report sets out the situation as it was during her visit.¹ References to subsequent developments are made where possible.

¹ See the end of visit [statement](#) and [press release](#).

II. Historical and political context

A. Localized and countrywide patterns of violence and killings

6. Brewing crises and weak rule of law are intertwined with, result from and add to a nationwide population explosion and increased rates of the extreme poverty that is the reality for 41 per cent of the Nigerian population.² Further exacerbated by the environmental degradation and desertification spreading throughout West Africa,³ that situation is also fed by an increasing proliferation of small and military-grade weapons, made readily available due to regional instability and originating, according to some reports, from as far north as Libya.⁴

7. Those pressures on the country's diverse environmental, political and economic systems have produced localized and countrywide patterns of violence, which, in several places, are seemingly spinning out of control, claiming the lives of thousands, including through arbitrary killings in the context of:

(a) Violence perpetrated by the security forces throughout the country, exercised under a regime of impunity;

(b) The non-international armed conflict against Boko Haram and splinter groups in the North East;

(c) Local militias engaged in mining and cattle rustling in the North West, particularly in Zamfara State;

(d) Violent clashes between Fulani herders and farming communities over access to resources;

(e) The repression of Indigenous People of Biafra and Islamic Movement in Nigeria;

(f) Cultism in the oil-producing southern states and well-organized criminal gangs;

(g) The mass expulsion of slum dwellers in Lagos and Rivers States and elsewhere, resulting in killings.

8. Countrywide, there are patterns of the failure to protect communities against attacks by armed groups resulting in widespread insecurity, the use of lethal force by police and the military, in violation of applicable international standards, the lack of effective investigation, the absence of meaningful prosecution and the militarization of policing. Those factors are compounded by a lack of transparency and the absence of effective public communication strategies, fuelling distrust and a breakdown of public confidence in the authorities.

9. The federal State seeks to contain those "subsystems of violence" by relying largely on military and securitization strategies. In some settings, that may, at least on the surface, have helped halt the spread of insecurity and reduced the number of killings, in the North East, for example. However, in many other areas and in the so-called farmer-herder conflicts, the security response – and the lack thereof – appears to have added new grievances and fostered further distrust, without either curbing the insecurity or providing better protection for the local population, particularly in isolated areas. The frequent involvement of the military in efforts to maintain public order has further undermined the authority of the police.

10. In yet other subsystems of violence, the security response is dangerously quasi-prospective, with active targeting of individuals, communities and associations for what they

² See [World Poverty Clock](#) (November 2020).

³ Nigeria faces rapid desert encroachment, affecting almost one fifth of its land area, notably in the northern States, but desertification is moving southwards. While official figures suggest that Nigeria loses over \$34.3 million every year to this, unofficial estimates put the annual cost in the billions. See www.vanguardngr.com/2015/08/nigeria-loses-n10-5b-annually-to-environmental-challenges/.

⁴ Conflict Armament Research, [Nigeria's herder-farmer conflict](#), January 2020.

may have done, even decades ago, or for what it is thought they may do or may become in the future.

11. Throughout the country, local power-holders use securitization strategies to enforce arbitrary and unlawful policies, decisions and actions, such as the mass expulsion of those living on the margins of cities, to make way for moneymaking condominiums or other public-private developments.

12. Security responses in Nigeria lack fairness and justice. They exacerbate the weaknesses of the policing and judicial institutions, which are unable to resist the increasing pressure of rising criminality, conflicts and security hotspots. The results are massive violations of human rights and humanitarian law, some of which may amount to crimes against humanity. The Special Rapporteur notes that the International Criminal Court has found there to be a reasonable basis to believe that members of the Nigerian Security Forces and of Boko Haram have committed acts constituting crimes against humanity and war crimes. She urges that Court to open an investigation into those crimes without delay and calls on Nigeria to ensure its full cooperation.

B. Law enforcement agencies in Nigeria

13. Law enforcement in Nigeria is a federal prerogative. Under the Constitution, other legislation such as the Police Act (2020) and the various human rights and humanitarian instruments to which Nigeria is a signatory, all law enforcement agencies are obliged to respect human rights. In pursuance of those obligations, the security forces have created human rights desks.⁵

14. Law enforcement services are supposed to be provided principally by the Nigeria Police Force, which covers all 36 Nigerian states and the federal capital territory, Abuja. It is a force of more than 350,000 individuals, divided into 12 zonal commands and 36 state commands. The Inspector-General of Police heads the force headquarters. There are several special forces, such as the paramilitary Mobile Police, the Special Anti-Robbery Squad (now disbanded) and the Swift Operation Squad.

15. In 2014, the police, with international support, published a manual containing human rights practice, accompanied by guidance. Reportedly, all police officers receive a copy of the manual and human rights have been introduced into the curricula of police training colleges.

16. The Armed Forces Act (2004) regulates the Nigerian Army, the Nigerian Navy and the Nigerian Air Force. It covers offences, punishments and accountability mechanisms – by martial court – for acts committed by officers of the armed forces. Under the Terrorism (Prevention) Act, the armed forces have the power to arrest and detain suspects for up to 90 days. Suspects must be brought before the court, which can extend detention for another 90 days, until “the conclusion of investigation and prosecution” (sect. 27 (1)).

C. A broken criminal justice system

17. In the report of his mission to Nigeria in 2005, the Special Rapporteur on extrajudicial killings pointed to “the remarkable inadequacies of almost all levels of the Nigerian criminal justice system”.⁶ Fourteen years on, the Special Rapporteur found that little had changed in that regard. The authorities have not implemented her predecessor’s recommendations about the criminal justice system. They have set up at least five presidential committees and working groups on reforming that system, but few of the resulting recommendations have been fully implemented.

18. Already in 2006, the Presidential Committee on the Reform of the Nigeria Police Force warned that the lack of resources had seriously damaged police work: “the intelligence

⁵ Nigeria, Ministry of Justice, “[6th periodic country report 2015–2016 on the implementation of the African Charter on Human and Peoples’ Rights in Nigeria](#)”.

⁶ E/CN.4/2006/53/Add.4, p. 3.

and information gathering mechanism has virtually broken down due to inadequate funding”.⁷ In 2007, the Chair of the Presidential Commission on Reform of the Administration of Justice said that the Government “can no longer ignore the systemic problems that have long existed in our criminal justice system”.⁸ In 2008, a Presidential Committee warned that “the police are today stuck with this undesirable workforce”.⁹

19. Likewise, in 2016, one of the findings of the Nigerian Military Human Rights Dialogue, organized by the National Human Rights Commission, was that: “Limitations in policing, weaknesses in prosecution and the absence of an effective penal system place unnecessary pressure on the Nigerian Military. The Nigerian Military should not be asked to take on the role of the Nigeria Police and the Prisons Service.”¹⁰

20. Despite accepting recommendations during the universal periodic review to reform the criminal justice system and introducing the Administration of the Criminal Justice Act in 2015, the authorities have failed to reform the system.¹¹ Overall, law reform has been extremely slow. The review of the Police Act, for example, took 16 years to be completed.

21. Instead of reforming and supporting the police so that it can improve its management of public order, the Government deployed the military, undermining the authority of the police. As at January 2020, the military was involved in security operations in 35 out of the 36 states in Nigeria,¹² often taking over civilian policing functions. The militarization of policing has resulting in countless unlawful killings throughout the country, often perpetrated with complete impunity.

22. Furthermore, thousands of people are in legal limbo because of repeated trial adjournments, because they are detained without charge and because there is the possibility of bail for extensive periods. Approximately 74 per cent of all inmates in the State’s overcrowded prisons are awaiting trial.¹³

D. Responsibilities of armed non-State actors for human rights violations

23. Many armed non-State actors are active in Nigeria. Their motivations may be political, criminal or a mixture of both. Some groups, such as Boko Haram and Islamic State West Africa Province, have territorial control and exact terrible losses on the local population. Others seem more fluid in their composition, aims and control. They include armed groups allied to Fulani herders and farmers, and militias based around ethnic affiliation, some of which are responsible for mass killings. A third type is gangs or cartels, referred to as “cults” in the Niger Delta region and “bandits” in the North West. The widespread loss of public trust and confidence in the security forces has led to the proliferation of vigilante self-protecting armed militias looking for revenge. The resulting gruesome killings of alleged criminal gang members, perpetrated with impunity, only add to the public security challenges confronting the federal and state authorities.

24. In accordance with the position set out in her report on violations of the right to life by armed non-State actors, the Special Rapporteur considers that such actors may be held to account for human rights violations, depending on the context and the nature and extent of their control, governance functions and capacities.¹⁴ The absolute prohibition against extrajudicial executions applies to all armed groups in all situations. As such, all armed groups operating in Nigeria in relation to which there is credible evidence that their members

⁷ Innocent Chukwuma, “*Motions Without Movement*”: *Report of Presidential Committees on Police Reforms in Nigeria* (Lagos and Abuja, CLEEN Foundation, 2008), p. 81.

⁸ See www.amnestyusa.org/press-releases/nigeria-detention-during-the-pleasure-of-the-governor/.

⁹ See https://nation974.rssing.com/chan-11626742/all_p7.html.

¹⁰ Nigeria, Ministry of Justice, “[6th periodic country report 2015–2016 on the implementation of the African Charter on Human and Peoples’ Rights in Nigeria](#)”, p. 34.

¹¹ The Act is yet to be adopted in six states: Borno, Kebbi, Niger, Taraba, Yobe and Zamfara.

¹² See www.sbmintel.com/2020/01/chart-of-the-week-military-exercises-in-nigeria/.

¹³ See www.corrections.gov.ng/statistics.

¹⁴ [A/HRC/38/44](#).

have committed arbitrary killings and other crimes should be held accountable for human rights violations, with their leadership investigated accordingly.

III. Applicable law

A. International law

25. Nigeria is a State party to several international human rights instruments relevant to the right to life: the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Elimination of All Forms of Discrimination against Women. It is also a State party to the African Charter on Human and Peoples' Rights.

26. Nigeria is a State party to the Geneva Conventions of 12 August 1949 and the Rome Statute of the International Criminal Court. The Office of the Prosecutor of the International Criminal Court considers the situation in north-eastern Nigeria to have constituted a non-international armed conflict since at least May 2013 and is due to begin investigating war crimes and crimes against humanity perpetrated by both sides to the conflict.¹⁵

B. National law

27. Section 33 (1) of the 1999 Constitution of Nigeria (as amended in 2011) guarantees the right to life, providing that “no one shall be deprived intentionally of his life, save in the execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria”. The Constitution guarantees the right to liberty and that, if arrested, a person will be brought before a court within reasonable time. However, section 35 (7) removes that protection for a person detained upon reasonable suspicion of having committed a capital offence. Section 14 (2) (b) provides that the security and welfare of the people shall be the primary purpose of government.

28. The Constitution allows for broad use of lethal force, including in defence of property, to suppress a “riot” and to effect a lawful arrest. Likewise, Police Order 237, which authorizes the use of force, does not adequately restrict the nature of the force nor set out the principles of necessity or proportionality. In October 2019, the Inspector General of Police announced a review of Order 237, but it is unclear whether the resulting draft proposal¹⁶ has been adopted.

29. The Terrorism (Prevention) Act, as amended in 2013, gives the State, including the armed forces, much broader powers to arrest and detain people than are allowed under international law or the Constitution. A court can grant a detention order for 90 days, which can be extended until “the conclusion of the investigation and prosecution”, (sect. 27 (1)), which would allow indefinite detention. In addition, law enforcement officers are allowed to “use such force as may be reasonably necessary” (sect. 27 (2)). The Act is also incredibly broad and vague with regard to which acts are criminalized. People convicted of terrorism could face punishment of 20 years' imprisonment or the death penalty. Nothing in the Act makes exceptions for children.

IV. Violations of the right to life in the North East

30. Since 2010, the populations of Borno, Yobe and Adamawa States have been caught between violent attacks by the armed group Boko Haram and its splinter groups, and the

¹⁵ See www.icc-cpi.int/Pages/item.aspx?name=201211-prosecutor-statement.

¹⁶ [Draft proposal: reviewed force order 237](#).

military operations of the Nigerian armed forces. Approximately 1.9 million people remain displaced by the conflict, while 10.6 million are in need of humanitarian assistance.¹⁷

31. There are no reliable estimates of the number of casualties resulting from the conflict, but it is likely to be close to 40,000, at a minimum.¹⁸ According to the report of the Secretary-General on children and armed conflict, in 2017 alone, 570 children were killed and 311 were maimed in Nigeria. Some 620 of those cases were attributed to Boko Haram and 261 to the Nigerian Security Forces.¹⁹ The actual number is likely to be much higher and the ongoing armed conflict is the biggest driver of displacement in Nigeria.

32. The military's current strategy involves concentrating its forces in "super camps" – fortified garrison towns run by the military – where they screen people, detain some, while housing others in consolidated camps for internally displaced persons in an effort to break up Boko Haram's supply routes. That strategy raises many concerns: it leaves an estimated one million civilians in inaccessible areas²⁰ with little or no protection, while those remaining are assumed to be supporters of the armed groups. Furthermore, the military restricts aid agencies from assisting people outside government-controlled areas.²¹

33. It appears that the number of arbitrary killings and deaths in custody perpetrated by members of the military forces in the North East has decreased since 2016. However, with no independent human rights monitoring in place and the military controlling access to large parts of Borno State, that claim should be independently reviewed. Reports continue to be received of killings, possibly on a smaller scale, and there is no evidence of progress in securing accountability and reparations for the massive violations of international human rights and humanitarian law committed to date.

34. Given the scale of the conflict-driven humanitarian crisis, access for international and national humanitarian agencies is crucial and without it, many individuals and communities remain in danger. At the time of the Special Rapporteur's visit, the United States of America required humanitarian agencies in receipt of United States funds to certify that none of their goods or services, including food, would go to those residing outside government-controlled areas because those people may be "terrorists". The Special Rapporteur cannot emphasize strongly enough that that requirement violates established principles of international humanitarian and human rights law and could lead to populations starving or being denied medical care on the grounds of association.

A. Extrajudicial and arbitrary killings by military forces

35. The Special Rapporteur found ample evidence of widespread and systematic targeting of young men and boys by the Nigerian Security Forces. She also found that, since 2015, women and their children from Boko Haram-controlled territory travelling without their husbands or fathers have also been targeted. Those arrested have not been charged or granted due process rights. Hundreds have been extrajudicially executed. Thousands have died in custody through starvation, suffocation and thirst.

1. Arbitrary detention and unlawful deaths in military custody (see appendix, paras. 1–9)

36. The Special Rapporteur could not confirm exact numbers, but as at June 2015, the military had arbitrarily detained at least 20,000 people without ever bringing them to court.²² Since then, thousands of civilians leaving Boko Haram-controlled territory have been arbitrarily arrested and detained. All former detainees interviewed by the Special Rapporteur

¹⁷ OCHA Nigeria.

¹⁸ Nigeria Security Tracker; www.cfr.org/global-conflict-tracker/conflict/boko-haram-nigeria.

¹⁹ A/72/865-S/2018/465, para. 225.

²⁰ Situation Overview: Humanitarian Needs and Conflict Dynamics in Hard-to-Reach Areas in Borno State, April–June 2020.

²¹ Human Rights Watch, "Nigeria: army restrictions stifling aid efforts", 4 March 2020.

²² Amnesty International, *Stars on their shoulders. Blood on their hands. War crimes committed by the Nigerian military* (London, 2015).

reported that the military had held them incommunicado, in extremely overcrowded cells where they witnessed deaths in custody as a result of poor conditions and ill-treatment. She also met several children who had been detained, along with adults, when they were no more than 8 years old, some for as long as 18 months.

37. The Special Rapporteur received numerous videos of emaciated corpses brought from Giwa Barracks military detention centre to a mortuary. Since 2011, some 10,000 detainees have allegedly died in military detention centres as a result of starvation, thirst, disease, torture and lack of medical assistance.²³ There have been no independent investigations into those deaths.

2. Extrajudicial killings (see appendix, paras. 10–19)

38. The military has extrajudicially killed hundreds of people, mostly men and boys. In one incident, on 14 March 2014, soldiers killed at least 640 recaptured detainees from Giwa Barracks. The detainees, many of whom had been arbitrarily arrested in mass screening operations, were killed after fleeing barracks in Maiduguri State, following a Boko Haram attack. Some had taken up Boko Haram's "invitation" to join them, while others sought refuge in nearby homes. The military and members of the Civilian Joint Task Force organized a citywide search, rounded up hundreds of former detainees throughout Maiduguri State and summarily executed them in broad daylight. No independent investigation has been carried out into that incident.

39. The Special Rapporteur received many other allegations of extrajudicial executions perpetrated by the military, dating back to 2012. According to a more recent allegation, towards the end of 2018, two men were reportedly extrajudicially killed near Lega Kura village in Mafa Local Government Area. The Special Rapporteur received filmed footage of the incident, showing Nigerian soldiers accompanying, talking to, then shooting two men and their donkeys. Activists reported that, according to people living in the area, the soldiers were based in Mafa. No investigation has been carried out into that incident.

3. Unlawful killings in the context of the Rann Camp bombing (see appendix, paras. 20–25)

40. On 17 January 2017, while a humanitarian food distribution was under way, the Nigerian Air Force bombed the Rann Camp for internally displaced persons, which had been set up by the Nigerian military. More than 120 people were wounded and possibly more than 160 killed, including 9 humanitarian workers. Witnesses described finding countless ball bearings in the area of the bombing, while some claimed rocket fire may have been deployed, possibly with locally made ammunition. Photographs of the dead and wounded showed both massive and smaller wounds, consistent with firing of ball bearing-based ammunitions. Those extremely serious allegations should have been independently investigated.

41. Army Headquarters blamed the bombing on a lack of appropriate marking of the site, explaining that people had not been expected to amass there and that it had appeared to be a place that could be used for enemy activities. The military presence in Rann, its role in establishing the camp and its facilitation of the humanitarian distribution on the day raise many questions. No independent investigation was carried out into that incident.

4. Enforced disappearances

42. During her visit to Maiduguri, the Special Rapporteur met with women, girls and boys whose children, husbands and fathers, who had last been seen in the custody of the military, had disappeared, some of them more than five years before.

43. A group of those women gave the Special Rapporteur the names of 1,668 men and boys who had been arrested between June and December 2015 during military operations in Bama in Borno State and who are still in military custody, with no access to their families or legal representatives. In 2017, the group created the Knifar Movement to advocate for information about their loved ones' whereabouts and for their immediate release from

²³ Amnesty International, "We dried our tears", 2020.

detention. Despite repeated requests to the federal Government and the National Human Rights Commission, the authorities have yet to provide any such information.²⁴

5. Deaths by starvation and denial of access to basic needs (see appendix, paras. 26–30)

44. Between late 2015 and mid to late 2016, thousands of internally displaced persons, predominantly women, children and elderly persons, who had fled from areas previously under the control of Boko Haram, allegedly died from lack of food, water and health care in militarized camps for internally displaced persons, which they were not allowed to leave.²⁵ Epidemiological surveys conducted by Médecins Sans Frontières in 2016 confirmed that many of those deaths were caused by extreme malnutrition, particularly of children under 5 years of age. The Special Rapporteur is not aware of any deaths having been registered in the camps during the period. Since screening processes separated many families, they did not learn of their loved ones' fate until much later.

6. Arbitrary killings by Boko Haram and splinter groups

45. Boko Haram has intentionally killed and maimed thousands of civilians in attacks throughout Borno State and parts of Adamawa and Yobe States²⁶ and bombed civilian targets throughout Nigeria. In May 2014, it killed more than 400 people in Gamboru. In August 2014, it killed at least 600 people in Gwoza. In January 2015, it killed hundreds in Baga. It also killed people in Adamawa State in December 2014 and hundreds of people in Madagali. None of those cases has been investigated.

46. Boko Haram also targeted law enforcement officials, teachers, health-care workers and members of civilian self-defence groups.²⁷ Since 2012, hundreds of teachers, schoolchildren and students have been killed or wounded, and thousands of children abducted, including in 2021. The teachers union in Nigeria estimates that, between 2009 and 2016, Boko Haram assassinated 611 teachers, burned down 910 schools and forced the closure of at least 1,500 others. On 19 February 2018, 113 girls from the Government Girls' Science Technical College in Dapchi, Yobe State, were allegedly abducted by Boko Haram. The group later released 107 girls, while 5 girls reportedly died during the abduction and 1 remained captive.

47. Boko Haram has targeted civilian objects protected under international law, including mosques, churches, prisons, camps for internally displaced persons, hospitals and markets, and has contaminated water installations. On 21 November 2017, an alleged Boko Haram suicide attack on a mosque in Mubi, Adamawa State, reportedly perpetrated by a young boy, resulted in the death of at least 50 persons.

48. Islamic State West Africa Province is responsible for the killing of many civilians, including two International Committee of the Red Cross (ICRC) staff members in October 2018²⁸ and five humanitarian workers in July 2020.²⁹ On 1 March 2018, members of Islamic State West Africa Province attacked Rann in Borno State, killing, among other victims, three humanitarian workers and abducting three female health workers, two of whom were working for ICRC and one for the United Nations Children's Fund (UNICEF). The ICRC health workers were subsequently murdered in September and October 2018.

²⁴ The women shared with the Special Rapporteur copies of the petitions they had sent to the authorities, the National Human Rights Commission and the Presidential Investigation Panel.

²⁵ Amnesty International, "They Betrayed Us", 2018.

²⁶ A/HRC/30/67, para. 22.

²⁷ *Ibid.*, para. 21.

²⁸ See www.icrc.org/en/document/nigeria-icrc-condemns-midwives-murder-appeals-abductors-spare-two-other-healthcare-workers and www.icrc.org/en/document/nigeria-health-worker-hauwa-mohammed-liman-executed-captivity.

²⁹ See <https://humangle.ng/it-is-unacceptable-intl-ngos-in-nigeria-condemn-killing-of-aid-workers-by-iswap/>.

V. Killings in the context of the so-called farmer-herder conflicts in the Middle Belt

49. Disputes over access to land and resources in the Middle Belt, particularly in Adamawa, Bauchi, Benue, southern Kaduna and Plateau States, pitched herders from the traditionally nomadic and Muslim Fulani, who make up about 90 per cent of the State's pastoralists, against mostly Christian farming communities from various ethnic groups. From time immemorial, herders from Nigeria and beyond have migrated south, particularly during the dry season, in search of pastures for their cattle, thus competing with farmers for access to land, resulting, at times, in conflict. However, violence has sharply intensified under the twin pressures of climate change and desertification and due to the violence in the north and elsewhere in West Africa, which is forcing herders further into southern Nigeria for longer periods of time. The situation has been exacerbated by expansion into traditional grazing reserves and over the cattle migration highway of farms, settlements and other buildings. In Plateau State, for instance, at least five gazetted cattle routes are now blocked. That has led to unprecedented southwards movement of herders.

50. The expanding farmer-herder conflicts are emerging as the gravest security challenge. They are growing and spreading, with inflammatory ethnic and religious rhetoric used to frame them. While the number of killings resulting from those conflicts is unknown, an estimated 11,000 persons have died owing to them in Plateau State since 2001. In 2018, the conflicts were said to be six times deadlier than the Boko Haram armed conflict, with over 1,300 people killed in the first half of the year alone.³⁰ Between January and July 2020, in multiple attacks in the south of Kaduna State, armed men killed at least 366 people.³¹

51. Those conflicts are often framed as a struggle by Christian Nigerians to preserve their indigenous lands against a religious and ethnic "invasion", a rhetoric condoned by many in positions of authority, particularly at the federal level. That widespread narrative, which can be used to justify far greater violence in the region, is remarkably short-sighted, offering little prospect for an effective way to address what are conflicts over scarce resources.

A. Arbitrary killings by armed groups

52. The attacks against farming and herding communities reported to the Special Rapporteur were depressingly similar: houses, crops and other property burned to the ground, seeds and fertilizers destroyed and cattle slaughtered or stolen. Many killings within farming communities occurred when herders came looking for their stolen cows. Various groups are responsible, referred to as Fulani herdsmen, farmers from various ethnic groups, youth groups and others.

53. Attacks on both sides are part of seemingly endless retaliations, tit for tat, and have a devastating economic impact, resulting in food shortages and malnutrition. Fishing communities in Benue State have also been targeted (e.g., in Ebete), as have people mining in Plateau State (e.g., in Jol).

54. In southern Kaduna, the state government allegedly restructured at least 46 chiefdoms and emirates into new administrations, reportedly giving the rule to Fulanis. The ensuing tension prompted clashes between communities, resulting in killings. In 2018, the Chief of the Adara people was killed. At the beginning of February 2019, 11 persons were killed in Kajuru and thousands were displaced. Elders accused of incitement were imprisoned for 100 days, then released due to lack of evidence. The authorities reportedly promised a commission of inquiry but, to date, no investigations have occurred and no testimony from survivors and witnesses has been taken or evidence collected.

³⁰ International Crisis Group, "Stopping Nigeria's spiralling farmer-herder violence", July 2018.

³¹ See www.amnesty.org/en/latest/news/2020/08/nigeria-government-failings-leave-rural-communities-at-the-mercy-of-gunmen/.

B. Killings by security forces, complicity with attackers and failure to protect

55. In almost all reported cases, the military or the police were in the vicinity of attacks, but in only a handful of cases did they fight back. In many cases, villagers had warned the police about impending attacks and called them again as the attack occurred, but the security forces habitually arrived only hours later. In several cases reported to the Special Rapporteur, members of the army were allegedly present in or near the villages, but had colluded with the attackers, further undermining public trust in the security forces.

56. With regard to the attack in Mkievowro in Plateau State in October 2017, in which 29 persons were killed while seeking refuge in a school, witnesses reported that soldiers who were present at the time were bribed by Fulani herdsmen. Afterwards, the soldiers were arrested and taken to Army Headquarters for trial. However, almost two years later, none of the survivors had been asked to provide a testimony and or to attend a trial, if indeed trials did occur.

57. On 4 December 2017, hundreds of herdsmen attacked at least five villages to avenge the previous month's massacre of up to 51 community members, mostly children, in Kikan.³² Villagers complained that the police and soldiers who were present took no action.³³ Instead, the Air Force fired rockets at five villages in Adamawa State: Dong, Kodomti, Lawaru, Nzuruwei and Shafaron, as a "warning", killing an unknown number of persons. It is impossible to determine how many deaths resulted directly from the air attacks as compared to the herders' attack, but in total, villagers reported 86 deaths. At least eight villages were badly damaged or completely destroyed by fire.

58. In Jos, responding to intercommunal violence between September and October 2018 and in May 2019, army personnel are alleged to have shot and killed people randomly. The Special Rapporteur was informed that, throughout the city, there are no-go areas for either Christians or Muslims.

59. In 2018, 86 persons were killed in the villages of Exlan, Nghar, Palang, Ruku and Tisan in Plateau State. At the time, there were only five soldiers in Shonong and five in Palang. It is alleged that soldiers in Nghar did not engage with the herdsmen, but in Vwak, soldiers did push back the assailants.

60. In Tanjol, on 2 October 2018, the villagers asked the military authorities to reinforce their presence in the hamlet given that the soldiers present there had declared that they could not protect the villagers against an impending attack. Witnesses reported that when the attack occurred, only the mobile policeman attempted to respond. He was killed, along with two villagers. Local civil society groups filed several complaints with various authorities at the federal and state levels, alleging dereliction of duty, but have received only one reply, from the National Human Rights Commission.

C. Ethnic displacement and the situation in camps

61. All that violence has caused massive displacement. By December 2019, some 578,000 people had been displaced in the Middle Belt. Since the violence escalated in January 2018, an estimated 300,000 people have fled their homes in Benue State alone and currently live in camps for internally displaced persons. Almost all internally displaced persons in Benue and Plateau States left due to communal conflicts, while in Sokoto and Zamfara States, practically all those who are now internally displaced fled due to banditry and kidnapping.³⁴

62. While the Special Rapporteur was unable to investigate claims that the violence against the members of farming communities is intended to displace them permanently so as

³² Amnesty International, "Nigeria: Dozens killed as military launches air attacks on villages beset by spiralling communal violence", January 2018.

³³ Ibid.

³⁴ See <https://displacement.iom.int/reports/nigeria-%E2%80%94-north-central-and-north-west-zones-displacement-report-3-december-2019?close=true>.

to leave land free for cattle breeding communities, she highlights the fact that the majority of farmers interviewed in Benue and Plateau States alleged that their former communities or lands had been taken over by herder communities with, in some cases, permanent structures established. In the majority of cases, it is unclear whether the herder communities currently in place will migrate again.

63. Given that the camps for internally displaced persons have now been in place for years and the lack of evidence that any of the persons living in them will return home, the situation is closer to that of permanent displacement. Both the displaced persons interviewed during the Special Rapporteur's visit and the non-governmental organizations working with them reported that the humanitarian situation in the camps is extremely dire in terms of access to food, non-food items and shelter. Camp residents have limited or no information on their entitlements, which disempowers them and exacerbates the tendency towards corruption and diversion, making it impossible for displaced populations to plan ahead.

D. Action by the authorities

64. In response to the violence, the federal Government has launched four major military operations and deployed more police and military units to the troubled states.³⁵ However, the units are ill-equipped to respond speedily to distress calls from remote villages or deter attacks by dozens of heavily armed men.³⁶

65. In January 2019, the federal Government adopted a National Livestock Transformation Plan to promote ranching and eliminate grazing. In August 2019, the governors in the South East banned herders from carrying AK-47s and announced their intention of setting up a joint air operation to flush out bandits from all forests and put measures in place to restrain the movement of herdsman and their cattle. With the possible exception of the weapon ban, those decisions are likely to trigger further violence.

66. Some investigations appear to have taken place in Benue State. According to official figures, some 90 attacks were investigated between 2017 and 2019, resulting in a total of 190 persons arrested, 179 prosecuted, 76 convicted and 103 awaiting trial. However, it is striking that no one interviewed during the Special Rapporteur's visit to Benue had been part of any formal investigation or prosecution process or had access to remedies or reparations for their loss of income.

67. An unknown number of alleged perpetrators from Plateau State have been brought to Abuja for investigation and prosecution at the federal level. However, neither the authorities in Plateau State nor the victims are aware of any outcomes. The handling of those cases at the federal level and the absence of transparency about the process and outcomes feed conspiracy theories and foster distrust.

68. Fulani herders made similar allegations of failures to investigate. For instance, the 2018 attack in Jong village, Plateau State, by Birom farmers resulted in 48 persons killed, 400 homes burned down and 1627 cows rustled. The survivors recognized some of the attackers and conveyed their names to security agencies. However, no investigation or prosecution has allegedly taken place. Herders also allege that while security agencies have been active in retrieving stolen cattle in recent months – mainly to avoid further conflicts – there is almost no evidence that those responsible are being prosecuted.

VI. Violence in the North West

69. Thousands of people have died in Zamfara State. In recent years, the situation has deteriorated due to so-called bandits who engage in kidnapping for ransom, ambush travellers

³⁵ International Crisis Group, "[Violence in Nigeria's North West: rolling back the mayhem](#)", 2020.

³⁶ See <http://saharareporters.com/2020/11/12/farmers-northern-part-nigeria-now-pay-bandits-n17m-tax-harvest-fees-avoid-attacks>.

and loot villages.³⁷ A committee set up by the Governor of Zamfara State to investigate the causes of armed banditry concluded that, between 2011 and 2019, bandits had killed 6,319 people and abducted 3,672 people. The committee recommended the creation of a judicial commission of inquiry.³⁸

VII. Cult violence in southern Nigeria

70. For almost two decades, cult violence has been associated with electoral processes in Rivers State, where most political actors reportedly rely on violence to win elections. It is alleged that in 2019, various cult leaders and groups, which reportedly operate in Rivers States without restriction, received monthly payments under a purported surveillance contract with the state government. Before and during election periods, politicians reportedly give cult members arms, ammunition and money to intimidate opponents, some of whom were killed.

71. In 2019, gangs killed at least 60 people from communities in Gokana and Khana local government areas. Complaints were filed with the police, but the complainants have received no information about investigations or arrest of suspects. The pattern of those attacks is strikingly similar to what people in other parts of the country experience. Cult members arrive early in the morning, burn houses, destroy and steal property and businesses and shoot people. The attacks usually last for several hours and the security forces arrive after the attackers leave. The authorities have taken no concrete action to protect those communities from violent gangs.

VIII. Killings during public order situations

A. Arbitrary killings in the context of the campaign to disband the Special Anti-Robbery Squad (see appendix, para. 31)

72. It is unknown how many people are killed annually during routine police operations. Activists reported frequent human rights violations by the police, in particular members of the Special Anti-Robbery Squad, including widespread torture, in some cases leading to deaths in custody and extrajudicial killings.

73. The authorities have announced the reform, banning or dissolution of the Special Anti-Robbery Squad seven times since 2015.³⁹ The social media campaign to disband the Squad (#EndSARS), launched in November 2017, led to countrywide street demonstrations. In 2018, the Vice-President directed the National Human Rights Commission to set up a special panel to investigate the alleged unlawful activities of the Squad.⁴⁰ The panel's report was submitted to the President in June 2019, but has not been made public. More than a year later, the National Human Rights Commission presented its report to the Attorney General and Minister of Justice and the Police Service Commission.

74. After the circulation of footage of Special Anti-Robbery Squad officers beating a man to death, in October 2020 the #EndSARS campaign gained momentum, with demands for an end to police killings and torture. However, police shooting at peaceful demonstrators killed at least 10 people. The Inspector General of Police then announced that the Special Anti-Robbery Squad would be replaced with a Special Weapons and Tactics squad and the National Human Rights Commission announced yet another investigation into the Special

³⁷ See https://m.facebook.com/story.php?story_fbid=10215814776703690&id=1272915609. See also Amnesty International, "Nigeria: rise in cult related killings in Rivers State", 9 January 2020.

³⁸ See https://m.facebook.com/story.php?story_fbid=10215814776703690&id=1272915609.

³⁹ In August 2015, the Inspector General of Police announced the "splitting" of the Special Anti-Robbery Squad; in September 2016, he "rebuked" the Squad; in December 2017, he "reorganized" it; in August 2018, he "overhauled" it; in January 2019, he "reformed" it; then in October 2020, he first "banned" the Squad and then "dissolved" it.

⁴⁰ See <https://statehouse.gov.ng/news/acting-president-orders-immediate-overhaul-of-the-special-anti-robbery-squad-sars-of-the-nigeria-police/>.

Anti-Robbery Squad. The federal Government also asked each state to set up judicial commissions of inquiry into police abuses.

75. The #EndSARS demonstrations ended abruptly after the military and police shot at peaceful protesters at the Lekki toll gate in Lagos, killing at least 12 and injuring many more. Closed-circuit television cameras and streetlights were switched off shortly before soldiers opened fire on the peaceful protestors, indicating a disturbing level of premeditation. Despite numerous videos of the shooting and its aftermath, the army denied that soldiers had been deployed.⁴¹

76. Lagos State set up a panel of inquiry to investigate the shootings and complaints against the Special Anti-Robbery Squad. During a hearing in November 2020, an army representative confirmed that soldiers had indeed been deployed and had used both live rounds and blank ammunition. However, in January 2021, the media reported that the army had disbanded its legal team. The panel then claimed that it had no power to force the army to appear before it.⁴² In February 2021, a member of the panel withdrew, alleging that the Government wished to use it merely for “performative actions”.⁴³

B. Arbitrary killings of members of Islamic Movement in Nigeria (see appendix, paras. 32–40)

77. Since 2015, followers of the Shia group Islamic Movement in Nigeria have been targeted. Between 12 and 14 December 2015, the Nigerian Army killed at least 347 followers in Zaria, Kaduna State. Without performing identifications or autopsies, the state government buried the bodies in a mass grave near Mando Road.⁴⁴ Subsequently, the group’s leader, Mr. El-Zakzaky, and his wife were arrested. They remain in detention despite a judicial ruling ordering their unconditional release. In April 2018, they were charged with culpable homicide and other offences, and in September 2020 they pleaded not guilty. Their trial started in November 2020.

78. In January 2016, the Kaduna State authorities established a Judicial Commission of Inquiry to investigate the incident in Zaria. It found that the Nigerian Army had committed serious human rights violations against Islamic Movement in Nigeria members, including disproportionate use of force and failure to keep a record of recovered casualties. However, no further action was taken at the state or federal level to investigate and prosecute those criminally responsible, despite the Commission’s recommendations. The Special Rapporteur requested further information on that from the Federal Ministry of Justice, to no avail.

79. The continued detention of Mr. El-Zakzaky and reports of the deterioration of his health have prompted demonstrations by Islamic Movement in Nigeria members, despite the unlawful killing of scores of people during such protests by the security forces.

80. On 26 July 2019, a Federal High Court declared Islamic Movement in Nigeria an unlawful group. In August, the police issued a circular directing officers to “ensure that identified leaders of the group and their structures are dismantled and their activities contained”.⁴⁵ That sets a dangerous precedent for the exercise of the right to freedom of religion or belief, for respect of fundamental liberties and for the right to life.

C. Arbitrary killings of members of Indigenous People of Biafra (see appendix, paras. 41–45)

81. Since 2015, members of Indigenous People of Biafra have faced arbitrary arrests, torture and extrajudicial executions, predominantly in the context of assemblies. Between

⁴¹ The army called it “fake news”. See <https://twitter.com/HQNigerianArmy/status/1318684952146419713?s=20>.

⁴² Premium Times, “#EndSARS: We can’t force army to appear before us – Panel”, 30 January 2021.

⁴³ See <https://twitter.com/SavvyRinu/status/1360229070072664071?s=20>.

⁴⁴ See www.icsft.net/6899/.

⁴⁵ See <https://tribuneonlineng.com/breaking-ig-orders-immediate-arrest-of-shiite-leaders-nationwide/>.

2015 and 2017, law enforcement officials reportedly killed more than 150 of them and injured hundreds of others in Abia, Anambra, Enugu and Rivers States.⁴⁶ A number of those arrested are allegedly held incommunicado. When finally charged, they are likely to face charges of membership of a terrorist organization, unlawful gathering and in some cases, kidnapping. Furthermore, the relatives of those who have disappeared have not been informed of their family members' whereabouts. In September 2017, the Indigenous People of Biafra leader, who was on bail, escaped and went into exile. A week later, a Federal High Court in Abuja proscribed Indigenous People of Biafra and designated it a terrorist group.

82. During her visit, the Special Rapporteur met several survivors of and witnesses to such killings and received many allegations of other violations of the right to life by the military. None of those killings and disappearances has been adequately investigated or those criminally responsible brought to justice. People wounded during military attacks have rarely received appropriate medical assistance. In addition to lacking the financial means to obtain care, they feared reprisals and arrest by security forces if they went to hospitals or even private clinics. As a consequence, many of the injury-related impairments have resulted in disabilities.

83. On 8 March 2018, the African Commission on Human and Peoples' Rights issued provisional measures requesting the federal Government of Nigeria to rescind both its decision branding Indigenous People of Biafra and its members as terrorists, and the proscription. It also condemned the lethal military attacks, which had led to many deaths, injuries, military arrests and detentions of Indigenous People of Biafra members. The Commission expressed the fear that many more members could be shot at sight pursuant to their having been declared terrorists.⁴⁷ It asked the Government not to take any further action, pending the decision of the Commission. The Special Rapporteur was not informed of any steps taken by the Nigerian authorities to implement the provisional measures.

D. Killings during the lockdown imposed to contain the spread of coronavirus disease

84. The National Human Rights Commission released three reports on human rights violations in the context of the lockdown imposed to contain the spread of the coronavirus disease (COVID-19) pandemic. The Commission received a total of 38 complaints about extrajudicial executions. During the first two weeks of the lockdown, between 31 March and 13 April 2020, it received complaints about 18 extrajudicial executions by law enforcement officials.⁴⁸ In the two weeks that followed, security forces reportedly killed 11 people.⁴⁹ Between 4 May and 21 May, after the lockdown was partially eased, the National Human Rights Commission received reports of another nine killings.⁵⁰ It is unclear whether any of the suspects have been prosecuted.

E. Killings during forced evictions

85. A campaign of violence and terror has accompanied the forced evictions from and unlawful takeover of Ogoni farmlands by the government of Rivers State. During those evictions, hundreds of houses and businesses were looted, burned or dynamited. The entire population of Zor-Sogho was forced to flee. Between June 2011 and May 2012, at least 31 persons from the Sogho community in Rivers State who had opposed the taking of their

⁴⁶ Amnesty International, "Nigeria: 'bullets were raining everywhere' – deadly repression of pro-Biafra activists", 2016.

⁴⁷ See www.facebook.com/onuigbo12/posts/166788087302425.

⁴⁸ National Human Rights Commission, "Report on human rights violations following the implementation of COVID-19 Regulations 2020 and directives issued by Federal and State governments from 31st March to 13th April 2020".

⁴⁹ National Human Rights Commission, "Report of alleged human rights violations recorded between 13th April to 4th May, 2020 following the extension of the lockdown period by Government".

⁵⁰ National Human Rights Commission, "Report of alleged human rights violations recorded between 4th to 21st May, 2020 after partial lifting of the lockdown by Government".

farmlands were killed or disappeared, with the alleged complicity of the Nigerian Security Forces. The National Human Rights Commission commenced an investigation, but no report has ever been made public.

86. In Lagos State, a strategy of militarization has been adopted to address the slums. Three main patterns have been identified: police killings during raids and evictions, some of which are committed by the Special Task Force of Lagos State; indiscriminate shooting in informal settlements; and “arrests” by vigilantes or traditional ruling families after an incident, or for no apparent reason, of persons who are then taken to police stations. There are no official records of the arrests, making it impossible to take legal action against police officers or vigilantes. Those who are detained are released only when payment is made to the police, part of which is passed to the vigilantes for their “work”.

87. In Otodo Gbame community in 2016 and 2017, 15 persons were killed and at least 5 others disappeared. One was Daniel Aya, who on 9 April 2017 was shot in the neck and killed by police officers from the Lagos State Task Force who invaded Otodo Gbame to demolish the community. The authorities have not independently investigated those killings.

IX. Other violations of the right to life

A. Violence against women and femicide

88. The Special Rapporteur welcomes the adoption of the Violence against Persons (Prohibition) Act of 2015, which addresses, among other things, gender-based violence. However, she regrets that it applies only in the Federal Capital Territory and the 13 states that have adopted the law. Several states have no specific laws prohibiting sexual and gender-based violence, even though domestic violence and femicide are prevalent and vastly underreported throughout Nigeria. The lack of nationwide adoption of the law also means that there appear to be no nationwide figures on rates of femicide.

89. Maternal mortality rates in Nigeria are among the highest in the world: in 2017, some 67,000 women and girls died from pregnancy-related causes.⁵¹ Unsafe abortions and the lack of post-abortion care remain the leading causes of preventable maternal mortality and are estimated to account for 20 to 40 per cent of the country’s maternal deaths.⁵² Since the start of the Boko Haram conflict, the number of abortions has reportedly surged in northern Nigeria. Most are clandestine and unsafe due to highly restrictive laws that permit abortion only to save a pregnant woman’s life and criminalize it in all other circumstances. In 2017, the Committee on the Elimination of Discrimination against Women recommended that Nigeria intensify efforts to reduce the incidence of maternal mortality and amend relevant Criminal Code provisions of federal states, with a view to legalizing abortion in cases of rape, incest, risk to the physical or mental health or life of the pregnant woman and severe impairment of the fetus, and decriminalize abortion in all other cases.⁵³ No such steps have been taken. The Special Rapporteur considers all deaths associated with unsafe abortion where abortion is criminalized to constitute an arbitrary deprivation of life by the State.

B. Arbitrary killings based on alleged sexual orientation

90. The Same-Sex Marriage (Prohibition) Act 2013, which took effect in Nigeria in January 2014, has allegedly led to an increase in extortion and violence against lesbian, gay, bisexual, transgender and intersex persons and imposed restrictions on non-governmental organizations that provide essential services for those persons.⁵⁴ Sharia laws in 12 states in northern Nigeria impose capital punishment for the “crime” of homosexuality, which poses

⁵¹ [Maternal mortality in 2000–2017](#).

⁵² See <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5643&file=EnglishTranslation>.

⁵³ CEDAW/C/NGA/CO/7-8, para. 38 (a).

⁵⁴ Human Rights Watch, “[Nigeria: harsh law’s severe impact on LGBT community](#)”, 20 October 2016.

a direct threat to the right to life of those persons. Federal and state authorities should urgently take the necessary steps to repeal those laws.

91. Members of the lesbian, gay, bisexual, transgender and intersex community live in constant fear. In some cases reported to the Special Rapporteur, lesbian, gay, bisexual, transgender and intersex persons have been subjected to humiliating treatment or mob attacks, both in private households and on the streets. Three alleged killings of individuals because of their perceived sexual orientation were reported, with the individuals being beaten to death. In general, victims and families do not file complaints about those cases. The Special Rapporteur reminds the authorities that a formal complaint is not required to initiate an investigation into an unlawful death.

C. Death penalty

92. The Special Rapporteur welcomes the country's informal moratorium on the death penalty, noting that Nigeria had not executed anyone since 2016.⁵⁵ However, in August 2017, the Ogun State government announced that it would no longer refrain from executions. In 2019, 54 persons were sentenced to death.⁵⁶ At the end of that year, there was a total of 2,745 individuals on death row in Nigeria, the highest number in sub-Saharan Africa.⁵⁷ An estimated 300 Nigerians abroad have been sentenced to death, including in Saudi Arabia, Indonesia and Malaysia. The Special Rapporteur has received multiple allegations that the Nigerian consular officers fail to provide the consular services to which their citizens are entitled, with a few notable exceptions.

93. In January 2021, a court ordered a retrial for a musician who had been sentenced to death by a Kano sharia court for blasphemy. Since 2015, there have been at least two more cases in which 10 people were sentenced to death for blasphemy. It is unclear whether they have appealed.

94. Nigeria has abstained from voting on the past seven United Nations General Assembly resolutions to implement a global moratorium on capital punishment. Each time, it has signed a diplomatic note disputing the legitimacy of the vote.

X. Accountability crisis and impunity (see appendix, paras. 46–71)

95. The Special Rapporteur found in Nigeria an entrenched culture of impunity and flagrant disregard for the rule of law. In most cases, the often severely traumatized victims and relatives have no access to justice and are left without a remedy. That contributes to the lack of public trust in the authorities. Publicly, the authorities promise investigations into all allegations of violations made against the military and the police.⁵⁸ Nevertheless in practice, most cases are never independently investigated. The authorities appear to investigate only cases that receive wide publicity or that are pursued vigorously by relatives or civil society. Even then, most findings are not made public and rarely result in prosecutions. Apart from the work done by investigative panels, there is no systematic documentation of arbitrary killings. The country lacks a strategy to preserve evidence and, particularly in the context of conflict, to manage mass graves. The registration of missing persons is left to non-governmental organizations.

96. For killings by armed groups and the security forces alike, the Government uses commissions of inquiry and investigative panels to replace both criminal investigations and

⁵⁵ Estimates indicate that between May 1999 and 2006, at least 22 people were executed. After a 7-year hiatus without executions, four death row inmates were executed in 2013. See <https://deathpenaltyworldwide.org/database/#/results/country?id=53>.

⁵⁶ See www.amnesty.org/download/Documents/ACT5018472020ENGLISH.PDF.

⁵⁷ See <https://tribuneonlineng.com/2745-inmates-on-death-row-difficult-to-control-%E2%80%95-correctional-service/>.

⁵⁸ Nigeria, Ministry of Justice, “6th periodic country report 2015–2016 on the implementation of the African Charter on Human and Peoples’ Rights in Nigeria”.

prosecutions of those who organized or carried out mass murder. Yet, that rarely leads to accountability. For instance, in the context of communal violence in Kaduna and Plateau States over the past decades, the authorities set up at least three presidential inquiries and several state and federal legislative inquiries. Yet the Government has never implemented the panels' recommendations. One of the 2010 Presidential Advisory Committee findings was that the non-implementation of past reports of the Judicial Commissions of Inquiries was a factor in the recurrence of the crises.

97. That pattern was highlighted in 2006 by the Special Rapporteur on extrajudicial killings. Sadly, his conclusions are still accurate 15 years later: the various initiatives, including inquiries, appear to be mostly for "whitewashing purposes" or to facilitate what one State Attorney-General referred to at that time as a "cooling of the political temperature".⁵⁹ They are not aimed at identifying lines of responsibility, delivering accountability and justice, providing remedies and reparations or determining and implementing structural or systemic changes.

98. In response to the repeated and well-documented allegations of violations in the North East, at least 22 commissions of inquiry, panels and fact-finding exercises have been established by the federal Government, state governments and the military, with at least four under the National Human Rights Commission. To the best of the Special Rapporteur's knowledge, none of them, apart from the investigations conducted by the National Human Rights Commission,⁶⁰ was mandated to recommend investigations and prosecutions of members of the military, police or civilian authorities or the Civilian Joint Task Force. In most cases, the main findings and outcomes are not made public.

99. The Special Rapporteur's conclusion is that for decades, the federal Government has demonstrated a shocking disregard for its own investigations into human rights violations, failing both to make findings public and to implement recommendations. In so doing, it has contributed to the perpetuation of conflict and violations. For instance, the Galtimari Committee urged the Government to consider the imperative of implementing white paper reports of various committees which had submitted useful recommendations in the past, but had yet to be acted upon. While the Government accepted that recommendation, no steps have been taken to implement it. Subsequently, the 2013 Turaki Committee⁶¹ and the 2016 Kaduna State Judicial Commission of Inquiry⁶² echoed the same recommendation.

100. The complete impunity granted for extrajudicial killings has created a climate in which everyone – State and non-State perpetrators alike – knows that they can get away with murder. Victims know there is little they can do, especially if they are poor.

101. Even in the few instances where investigations appear to have taken place, such as in Benue State, it is striking that none of the persons interviewed during the Special Rapporteur's visit there had been part of any formal investigation or prosecution process. Similarly, none of them had been given access to remedies or reparations for their loss of income. The repeated failure to involve survivors and families in investigations and prosecutions and the failure to report back to the affected communities further fuel toxic, dehumanizing narratives that also exacerbate the breakdown of the public trust and confidence necessary for an effective response.

⁵⁹ E/CN.4/2006/53/Add.4, para. 103.

⁶⁰ The National Human Rights Commission Act 1995 (as amended) gives the Commission the power to refer individuals to the federal or state Attorney General for prosecution.

⁶¹ The 2013 Presidential Committee on Dialogue and Peaceful Resolution of Security Challenges in the North (the Turaki Committee) was given the mandate to: "constructively engage" key members of Boko Haram; define a framework for resolving insecurity in the country; develop a framework for granting amnesty; set up a disarmament framework; develop a victim support programme; and develop mechanisms for addressing underlying causes of the insurgency.

⁶² The Zaria Commission set up to investigate the clashes between the Nigerian Army and members of Islamic Movement in Nigeria.

XI. Conclusions

102. The state of the administration of justice in Nigeria gives rise to extreme concern. The federal authorities and their international partners preside over a veritable pressure cooker of injustice, in which several of the specific contexts examined are truly simmering. Functional accountability is absent on such a scale, and resentments spread so widely, that pretending that the situation is otherwise is a major mistake, as is ignoring the crisis. A tragedy for the people of Nigeria, the central economic, political and cultural leadership of the country means that the effects of that situation also ripple unchecked far beyond the country's borders, throughout the subregion and the continent as a whole.

103. The broken criminal justice system, the widespread loss of public trust and confidence, and the corruption and rampant impunity are all root causes of the widespread unlawful killings perpetrated by security forces, armed groups and gangs alike. At virtually every level of government, the system is failing. The authorities further undermine the justice system, including the independence of the judiciary, by failing to implement court orders pertaining to security agencies. Moreover, there is a total lack of access to remedy and a total absence of victim/survivor-centred approaches to addressing widespread and repeated human rights violations.

104. With only a few notable exceptions, the number of killings has increased over the past 10 years, as have the levels of criminality and insecurity. There is a widespread failure by the federal authorities to investigate and hold perpetrators accountable, even for mass killings. Victims and their relatives are absent from the government response; they are left without any hope of securing the justice for which they long.

105. Nigeria may be a middle-income country according to economic indicators, but the situation there is spiralling into a human rights and humanitarian crisis that requires urgent action by both the Nigerian authorities and the international community. Rising poverty, deepening inequality and expanding environmental disaster contribute to the multiplication and durability of hotbeds of violence, pointing to a pressing need for the country and its partners to adopt integrated, multidimensional approaches to tackling killings and impunity for them.

XII. Recommendations

Systemic impunity and accountability

106. The Government of Nigeria should:

- (a) Issue public statements condemning all extrajudicial executions and other unlawful killings and expressing commitment to pursue accountability for those crimes;
- (b) Create an interministerial working group, headed by the Vice-President, to implement an integrated multidimensional justice and accountability road map. The working group should include experts on desertification and climate change and should work hand in hand with experts in justice reform and criminal accountability;
- (c) Establish a commission with national and international experts to examine the failure of past (inconclusive) investigations into extrajudicial killings and make recommendations on structural reform, including to the interministerial working group;
- (d) Create a long-term international unit embedded within the judicial system⁶³ to advise and support investigations into extrajudicial killings and implementation of the justice and accountability road map;

⁶³ The model envisaged is akin to the International Commission against Impunity in Guatemala, which is backed by the United Nations.

- (e) **Develop a transitional justice strategy identifying priorities and mechanisms for investigation, prosecution and reparation;**
- (f) **Implement a victim/survivor-centred methodology for courts that includes actively encouraging victim and witness participation in trials, supporting their participation, ensuring confidentiality and providing witness protection where necessary;**
- (g) **Make public the findings of all investigations into human rights violations set up over the past 10 years;**
- (h) **Establish a victim/survivor-centred reparations programme, in consultation with civil society and affected communities;**
- (i) **Implement the recommendations made during the second and third cycles of the universal periodic review of Nigeria, held in 2013 and 2018;**
- (j) **Protect and ensure the full independence of the National Human Rights Commission and provide it with all the resources it requires to work to the full extent of its mandate.**

Domestication and implementation of human rights instruments

106. **The Government of Nigeria should:**

- (a) **Amend the Terrorism (Prevention) Act, including by repealing the death penalty, providing that an individual may be arrested only on reasonable suspicion of having committed a criminal offence, providing that all individuals must be promptly brought before a court and charged with a recognizable criminal offence, and providing that law enforcement officers (including the military when exercising such a function) may use force only when strictly necessary and to the minimum extent required;**
- (b) **Domesticate and implement the State obligations under the Rome Statute of the International Criminal Court;**
- (c) **Domesticate the Convention on the Elimination of All Forms of Discrimination against Women and legalize and decriminalize abortion;**
- (d) **Take steps to formally abolish the death penalty, including by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;**
- (e) **Repeal laws that impose capital punishment, particularly for homosexuality, blasphemy and rape.**

Security sector reform

107. **The Government of Nigeria should:**

- (a) **Ensure that use-of-force guidelines are in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**
- (b) **Finance and provide the Nigeria Police Force with adequate equipment and training and with rules for conduct that are in line with international human rights law and standards;**
- (c) **Establish professionally staffed and appropriately equipped forensic laboratories in key regional centres, without delay;**
- (d) **End all use of the military in public order situations and ensure that police officers are adequately trained and equipped to deal with crowd control situations with the minimum use of force, in line with international law and standards;**
- (e) **Develop, enact and regularly update a national action plan to guide the management of public assemblies and seek technical assistance from the Office of the United Nations High Commissioner for Human Rights or other specialized agencies, as appropriate.**

108. **International actors should:**

(a) **Ensure development assistance strategies and implementation plans for Nigeria and its states, taking full account of the interlinkages between insecurity, impunity, poverty, climate change and armed group activities;**

(b) **Pay specific attention to understanding and responding to the conflicts overresources in the context of desertification, including those between nomadic cattle-breeding and sedentary farming communities, developing projects relevant to each of the regions concerned;**

(c) **Endorse the recommendations in the present report and advocate for their implementation by the federal Government;**

(d) **Provide technical, financial and strategic support to the Nigerian authorities for the implementation of recommendations relating to criminal justice reforms and to accountability for crimes committed by all parties to the conflict.**

109. **The Prosecutor of the International Criminal Court should urgently open an investigation into the situation in Nigeria.**

Appendix

Incidents of violations of human rights and humanitarian law

A. Human rights and humanitarian law violations in Northeast Nigeria

Death in military custody

1. The Special Rapporteur met several former detainees who alleged that since 2011, thousands of people died in military detention. Several human rights organizations have also reported on the mass deaths of detainees in military-run facilities. Most detainees died in Giwa Barracks, but the Rapporteur also received information about deaths in military detention in Damaturu, Potiskum, Yola and Kainji.
2. In Giwa Barracks, more than 10,000 people were allegedly killed by gunshot wounds, starvation, torture, overcrowding in cells and outbreaks of diseases. The detainees were held in horrific conditions. In particular, between 2012 and 2013, hundreds of detainees died every month, according to former detainees, who gave detailed accounts of the deaths in military custody caused by lack of food, water or medical treatment. While unlawful deaths decreased from 2014 onwards, survivors of military detention said that countless people, including children and babies, died in 2016 due to a measles epidemic.
3. The Special Rapporteur also obtained numerous photos and videos of corpses of mostly men but also babies and toddlers, brought from Giwa Barracks to a mortuary in Maiduguri. These images show extremely malnourished bodies, wearing not much more than shorts. From January 2017, the corpses were brought in black bags. In April 2017, an airconditioned container was placed to store the bodies. A video shared with the Special Rapporteur shows the container packed with corpses. There is no indication that the relatives of those who died were ever informed of the deaths of their loved ones.
4. The Special Rapporteur met mothers of those detained before 2014 who claim their sons were mostly picked up during raids and mass arrests. Some had not seen their sons for up to nine years after the military arrested them. Witnesses told the Special Rapporteur that the majority of people arrested by the military during screenings and mass arrests were civilians who were not taking part in hostilities, not carrying arms, and not wearing uniforms, insignia or other indications that they were members of Boko Haram. As detainees in military detention were never charged to court, they had no opportunity to challenge the lawfulness of their arrest and detention.
5. In one such incident, the military allegedly arrested 298 people on 29 May 2013 at Baga Road Motorpark in Maiduguri. They were all told to lie on the ground, then beaten and taken to Giwa Barracks. Video footage of that day shows soldiers beating the men and taking away large groups of them. The Special Rapporteur has received a list of 298 men arrested. They have not been seen since their arrest.
6. The Special Rapporteur has met with countless women who told her that their husbands and sons were arrested after they escaped Boko Haram territory and detained in Giwa Barracks. Sometimes the military detained whole families. In one such incident in Gumche Village (Mafa local authority), around 40 individuals, including men, women, boys and girls, were arrested. This included at least five boys. Of these 40 persons, 1 child and 1 adult died. The military released the women and children after 18 months. They sent the children to a hospital before their release. All the men were allegedly transferred to Kainji Barrack in Niger state.
7. The Special Rapporteur was informed that in Kainji military detention facility in Niger state, approximately 500 people died between April and July 2014 due to starvation and thirst. Former detainees say that people drank urine to survive. They were held there for years, without access to a court or the outside world.

8. As far as the Special Rapporteur could confirm, the authorities have never independently investigated death in custody, despite frequent requests by several human rights organizations. The National Human Rights Committee does not routinely visit military detention centres, and lawyers generally have no access to military detention. Nigeria coroner's laws require authorities to investigate every death in custody. But this is not done, and relatives are not informed of the deaths.

9. The military forces have frequently announced investigations into allegations of human rights violations, but such reports are never made public.¹ The authorities should ensure that all such reports and registers of arrests and death in custody since 2011 are handed over to a judicial body for review.

Extrajudicial executions following Boko Haram's Giwa Barracks attack

10. On 14 March 2014, Boko Haram fighters attacked Giwa Barracks in Maiduguri in broad daylight and released hundreds of emaciated detainees from their cells. Some detainees took the group's offer to join them, while the majority sought refuge in nearby homes. A video released by Boko Haram² shows fighters entering the Giwa barracks, setting ablaze scores of vehicles in the compound. They met no resistance. Hundreds of frail-looking people, including women and children, ran away from the barracks, most on bare feet.

11. Maiduguri residents gave these former detainees shelter, food and clothes. After the Boko Haram fighters had left, the military and members of the Civilian Joint Task Force (CJTF) organized a citywide search. Hundreds of former detainees were assembled in various locations across Maiduguri and summarily executed in broad daylight. The Special Rapporteur has received several videos, verified to have been taken on that day, showing hundreds of corpses. It includes videos taken at a mortuary in Maiduguri and across the city, showing piles of corpses and mutilation of dead bodies. According to Amnesty International, the security forces killed at least 640 men and boys.³ Their bodies were buried in mass graves across Maiduguri.

12. Two videos given to the Special Rapporteur show soldiers and CJTF members executing recaptured detainees by cutting their throat and shooting them. One shows 16 young men and boys sitting on the ground, and one by one, they are called forward and told by the military commander to lie down in front of a pit. Armed soldiers and Civilian JTF members cut the men's throats with a blade and dump them into an open mass grave. All the men killed had reportedly been rearrested after they escaped from Giwa Barracks. According to activists, the military took them to the Jidari Polo area, from where soldiers loaded them into vehicles and took them, according to activists, to the outskirts of Maiduguri, along the road between Jidari and Mule. The videos show the faces of the perpetrators. Activists told the Special Rapporteur that some of the CJTF members seen in the video were known in Maiduguri.

13. According to eyewitnesses, no forensic investigation was carried out. To date, there has been no independent investigation into these mass killings. None of the relatives has been informed about what happened to their loved ones.

Other extrajudicial executions

14. The Special Rapporteur received allegations of various other extrajudicial executions by the military. For instance, towards the end of 2018, two men were allegedly extrajudicially killed near the village Lega Kura in Mafa LGA. The Special Rapporteur has received a disturbing video of this incident, which shows Nigerian soldiers accompany two men with their donkeys. The soldiers tell the men that they should have listened and not roam around. They then shot the men and their donkeys. No investigation has been carried out.

¹ See for example: <https://defenceinfo.mil.ng/nigerian-military-react-to-amnesty-international-report-of-humanrights-abuse/>.

² The video was published on youtube but later removed. A copy was provided to the Special Rapporteur.

³ Amnesty International, "Stars on their shoulders, blood on their hands", June 2015, pp 42–45.

15. On 1 March 2018, the military brought the corpses of 28 men to a mortuary in Maiduguri. Their bodies showed evidence of gunshot wounds. Soldiers had allegedly shot the men after a screening in Bama LGA. No investigation has been carried out.

16. Less recent incidents include the killing of up to 200 civilians and the destruction of Duguri village (in Kukawa LGA, Borno state) by the Multinational Joint Task Force (MJTF) on 15 February 2012, two days after Boko Haram had killed two soldiers of the MNJTF. The MNJTF reportedly instructed the residents to produce the attackers responsible for the killings. The next day, in what appears to be a revenge attack, the soldiers opened fire on the villagers and burned all houses. They killed up to 200 people.

17. Another apparent revenge attack happened in Baga on 17 April 2013, after Boko Haram killed a soldier in Baga. Soldiers of the MNJTF killed approximately 200 people and destroyed more than 3,000 houses. The commander of the MNJTF reportedly denied any wrongdoing and claimed that Boko Haram had burned 30 homes. The NHRC investigated the incident, although they could not travel to Baga, and released a report confirming that killings by MNJTF had been committed without giving any number of victims. The local government established a list of those who died in the Duguri and Baga attacks. No one was held to account for the killings and the survivors received no remedy.

18. The Special Rapporteur also met with relatives of 35 men killed by the military in Bama after being arrested during a military screening in Bama (Borno state) on 23 July 2013. During the screening, the military instructed all men to undress and line up before a man in an army truck who ordered them to either go left or right. Thirty-five men were accused of being Boko Haram members. Videos of this screening show that the soldiers and CJTF placed the 35 on the floor and started beating them, then put them in a military truck and drove off. On 29 July, in the afternoon, all 35 men were found dead in different parts of the town. There has been no investigation into these extrajudicial executions.

19. There is multiple evidence of extrajudicial executions by the Military after victims had been arrested during military operations and screenings. In none of the cases presented to the Special Rapporteur did the men seemingly present any danger or threat to life. Independent, impartial and thorough investigations have not been carried out to clarify the circumstances of their killings.

Rann bombing

20. On 17 January 2017, the Nigerian airforce bombed an IDP camp in Rann, Borno state. On that day, humanitarian organizations visited the highly militarized IDP camp to repair a borehole and distribute food. Witnesses told the Special Rapporteur that they saw a surveillance jet circling above the camp around 11 a.m., followed by another jet that bombed the area where the borehole was. It circled again and dropped another bomb on the tents of the IDPs.

21. The exact number of people killed is not confirmed. The Special Rapporteur received a list with 127 names of victims – two thirds of them were children. Witnesses who assisted the burial say they buried 167 people at Rann cemetery by 18 January. A witness claimed many bodies had body parts ripped off, and that there were round ball bearings everywhere in the camp on the ground. On 24 January 2017, the Chairman of Kala-Balge Local Government Area of Borno State said 234 persons were buried in Rann.

22. More than 110 people were seriously injured; 91 victims were taken to Maiduguri for medical treatment. They had broken limbs, severe burnings and flesh wounds caused by small ball bearings. Survivors told the Special Rapporteur that soldiers ordered the people in Rann to clean up and return all ordnance and countless ball bearings spread in the area of the bombing. It was further alleged that the jet may have used rocket fire, possibly with locally made ammunition.

23. Satellite images of Rann just after the bombing show two impact sites, and “at least 35 structures were destroyed in the attack, including shelters for displaced people”. The tents were visible from the air, as was the military base.⁴

24. Many international organizations, including the UN High Commissioner for Human Rights, and the UN Security Council, have called on Nigeria to investigate this incident. The Nigerian air force immediately said it was an accident. Both the air force and Defence Headquarters set up an investigation; the reports were never made public. The survivors of the bombing in Rann claim they did not see any investigators and were not asked for their testimony. Furthermore, none of the survivors received appropriate reparation or remedy. To the best of the Special Rapporteur’s knowledge, no independent investigation has been carried out.

25. In July 2017, Army Headquarters released a statement⁵ blaming the bombing on a “lack of appropriate marking”, explaining that “people were not expected to amass at that location” and that “it appeared as a place that could equally be used for enemy activities”. It did not explain who ordered the bombing or how this could happen, considering that the military was in charge of the camp and had facilitated the humanitarian aid that was going to be distributed that day.

Starvation in militarized IDP camps

26. Thousands of people, mostly women and children, are alleged to have died in military-run camps for displaced people across Borno State in 2015 and 2016. These camps reportedly held women, older people and children, in horrific conditions. They were initially only given food once a day, and there was not enough water. If they wanted more food, they had to pay the Civilian JTF members or soldiers who guarded the camp. The women were not allowed to leave the camp to search for food. Witnesses have given detailed testimonies about the starvation and sexual violence in these camps.

27. Satellite images of the cemetery in Bama Hospital camp from 2015 and 2016 indicate large numbers of deaths in this camp. Data published by humanitarian agencies confirm the alarming levels of acute malnutrition in these military-run camps in 2016.⁶

28. The Special Rapporteur is not aware of any registration of those who died in displacement camps in 2015 and 2016. As the screening processes separated many families, relatives often only found out much later what happened to their loved ones. A survivor group called Knifar (displaced women mostly from Bama LGA whose husbands are in military detention) have documented almost 900 deaths in Bama Hospital Camp.⁷ Displaced people from other military-run camps, such as Banki, Dikwa, or Monguno, also reported daily deaths in 2015 and 2016.

29. While the situation has improved since late 2016, in many of the camps, particularly outside of Maiduguri, IDPs are still subject to restrictions on their movement, while assistance provided inside the camp is not always adequate, leading to ongoing hunger- and sickness-related deaths. The fate of those currently living in inaccessible areas with little to no assistance remains unknown.

30. The people held in militarized camps for displaced persons were arbitrarily deprived of their right to liberty and freedom of movement, violating Nigeria’s Constitution and international human rights law. International law allows for restrictions to freedom of movement to protect national security, but they must be provided for in law, be proportionate,

⁴ Human Rights Watch, Nigeria: Satellite Imagery Shows Strikes on Settlement, 2017.

<https://www.hrw.org/news/2017/01/19/nigeria-satellite-imagery-shows-strikes-settlement>.

⁵ “Shocking: In Final Report, Nigerian Military Clears Airmen Who Bombed Refugee Camp In Rann, Killing 115 Boko Haram Victims”, available at: <https://todaynewsafrika.com/shocking-final-report-nigerian-military-clears-airmen-bombed-refugee-camp-rann-killing-115-bokoharam-victims/>.

⁶ FEWSNET, “A Famine likely occurred in Bama LGA and may be ongoing in inaccessible areas of Borno State”, 13 December 2016, at: www.fews.net/sites/default/files/documents/reports/FEWS%20NET%20Borno%20%20Analysis_20161213release.pdf.

⁷ They shared the list of names with the Special Rapporteur.

non-discriminatory and consistent with other human rights. To the best of the Special Rapporteurs knowledge, these restrictions were not provided for in law. The ongoing armed conflict in these areas may have been a legitimate reason to restrict movements, but confining IDPs to camps for months without adequate access to the basic necessities of life, including food, water, health and medicine, is unlawful. Moreover, the authorities knew or should have known that thousands of civilians were held in these camps under dire circumstances, but they failed to improve the situation or remove movement restrictions.

B. Killings during public order situations

Killings of EndSars protesters

31. During the last week of October 2020, an unknown number of people were killed during a joint military-police operation in Oyigbo, Rivers state, in what appears to be a revenge operation for killing six soldiers and four police officers. The military operation was reportedly triggered by an EndSars protest that had become violent. It is also alleged IPOB members killed the police and soldiers. A 24-hour curfew followed, and journalists and human rights defenders reported they could not reach the area for days. Witnesses and human rights defenders who investigated said that soldiers shot the residents at will.⁸ The Special Rapporteur also received numerous photos and videos showing the aftermath of the shootings in Oyigbo. Investigative journalists described “war-grade violence by the military on unarmed people”.⁹ No independent investigation has been carried out.

Attacks by the Nigerian army on members of the Islamic Movement of Nigeria (IMN)

32. The crackdown against the Islamic Movement of Nigeria (IMN) started at the beginning of the 1990s and continues nowadays. The most remarkable incident happened in Zaria, Kaduna, between 12 and 14 December 2015. On 12 December 2015, IMN blocked the Chief of Army Staff’s convoy in Zaria, Kaduna State. This resulted in soldiers firing with live ammunition, killing at least seven IMN members in the procession and injuring several others. The military claimed that IMN attacked them, but there appears to be no evidence supporting this allegation.¹⁰ Later that night, soldiers surrounded the organization’s headquarters and other locations where IMN protesters were gathered, such as the compound of IMN leader Ibrahim Al-Zakzaky. The soldiers shot intermittently at the headquarters and Ibrahim Al-Zakzaky’s compound throughout the night, setting some buildings on fire and killing and wounding hundreds of IMN supporters. On the night of 14 December 2015, Kaduna state officials buried hundreds of bodies secretly in a mass grave in the Mando area of Zaria. It is alleged that at least 347 followers of the Shi’a group were killed by the Nigerian Army.

33. After the incident, the military meticulously destroyed most of the evidence at the scenes of the clashes. Approximately 200 people were arrested; some were charged with offences such as criminal conspiracy, attempted culpable homicide, unlawful assembly, disturbance of the peace, unlawful and wrongful restraint and unlawful possession of firearms. In 2020, 100 of them were discharged and released.

34. It is unclear why the military was deployed as it was a law and order situation the police should have handled. It is also unclear why the army resorted to using live ammunition against mostly unarmed protesters without any attempt to de-escalate and use non-lethal crowd control means. Under the circumstances as described by witnesses, this situation did not warrant the use of lethal force.

⁸ The Special Rapporteur received one complaint regarding this incident from the NGO HURSEDEF and relatives of four people who were killed: Chidi Nwanaje; Mrs Gift Moses Ogolo; Chinwendu Rufus Adiele; and Queen Nwazuo.

⁹ Premium Times, [INVESTIGATION: Inside the horrific bloodshed and massive extrajudicial killings in Nigeria’s Oyigbo community](#), 23 November 2020.

¹⁰ See: Amnesty International, Nigeria: “Unearthing the truth”: Unlawful killings and mass cover-up in Zaria, April 2016, p. 10.

35. Following the killings, the IMN leader, Mr. El-Zakzaky, and his wife were arrested and are still in detention, despite a judicial ruling ordering their unconditional release from detention. On 22 January 2019, the Kaduna State High Court ordered the Kaduna State Government to avail the IMN leader and his wife access to medical care. He allegedly sought medical care in India in August 2019 but was rearrested upon his return. On 5 December 2019, the Kaduna Federal High Court has ordered Mr. El-Zakzaky and his wife to be transferred to the Kaduna Central prison, despite their precarious health conditions.

36. In January 2016, the Kaduna State established a Judicial Commission of Inquiry to investigate the Zaria incident. The Commission found that the Nigerian Army committed serious human rights violations against IMN members, including disproportionate use of force and failure to keep record of recovered casualties. However, no, further action was taken at the State or Federal level to investigate and prosecute those criminally responsible for the killings, one of the crucial recommendations of the Commission. The Special Rapporteur has requested further information about this to the Federal Ministry of Justice in 2019, but none had been received by the time of this report.

37. The continued detention of Mr. El-Zakzaky and the allegations of deterioration of his health have prompted demonstrations by IMN members. On 29 October 2018, soldiers from the 7th Battalion, part of the Presidential Guard Brigade, shot at peaceful IMN members as they marched in Abuja, killing and injuring scores. The military claimed it was in self-defence, but a review of videos taken of the incident shows that the protesters were not armed or any threat at all. The soldiers can be seen shooting at the crowd indiscriminately and from close range and continue to shoot as the protesters retreat. They used battlefield weapons, including an armoured vehicle with high calibre weapons.

38. In Abuja, on 9 and 22 July 2019, two demonstrations were violently repressed by the police. The authorities have alleged that these demonstrations were violent and participants armed. During the 22 July demonstration, fatalities were reported, including that of the Deputy Commissioner of Police, as well as a journalist and an unknown number of IMN members. The police officer was reportedly facing the demonstrators and trying to pacify them when he was shot on the back of his head. The police claims the officer was shot by the protestors but no forensic evidence has been made public up to date. After this demonstration, about nine IMN members are alleged to have died in custody. A total of 12 of the 60 IMN members that remain in detention, have gunshots wounds and fractures and are under the strict custody of the police. After the demonstration, three IMN members allegedly died in custody.

39. On 26 July 2019, the Federal High Court No. 11 in Abuja declared the IMN to be an unlawful group. In August, the Nigerian Police issued a circular that directs police officers to “ensure that identified leaders of the group and their structures are dismantled, and their activities contained”. This sets a dangerous precedent for the exercise of the right of freedom of religion and belief, and respect of fundamental liberties and to the right to life.

40. On 10 September 2019, despite the proscription ruled by the Federal High Court, the IMN convened the annual Ashura Processions. The processions were held in all the state capitals of Northern Nigeria and in Abuja. In several cities processions took place peacefully. However, in other places, police resorted to force leading to numerous casualties. Fifteen individuals have been killed and several others injured after police officers allegedly used excessive force against peaceful mourners. The victims were buried on the following day and no post-mortem examinations were conducted. Some of the individuals injured were arrested and have since remained in detention without access to medical care.

Attacks on members of IPOB

41. Since 2015, members of IPOB have faced arbitrary arrests, torture and extrajudicial executions, predominantly in the context of demonstrations. Between 2015 and 2020, it is alleged that law enforcement officials killed more than 400 IPOB members and injured at least 500 in different events in Abia State, Anambra State.

42. On 9 February 2016, soldiers killed at least 10 persons in the Aba National High School prayer rally. Video footage of this shooting shows IPOB supporters gathered in a field at the school premises, unarmed and not violent. They were dancing and singing.

Approximately 50 soldiers and police officers ran into the field where the IPOB members had assembled and surrounded them. The soldiers established a perimeter and crouched down, aiming their firearms. The police showed no intent to control the crowd and withdrew. First, tear gas was fired into the crowd and seconds later, the soldiers fired live ammunition. As people ran away, the soldiers continued to shoot at the fleeing crowd. The video evidence indicates that the intent of this operation was to use lethal force.

43. According to witnesses, soldiers of the 144 Battalion took some of the bodies to unknown locations; among them were those found on 13 February 2016 inside a borrow pit located along the Aba-Port Harcourt Road, in Abia State. Some of the victims had their hands tied behind their back, others were blindfolded. Two weeks later, the bodies were burned. No investigation was carried out, despite the serious allegations, backed up by video evidence.

44. On 29 and 30 May 2016, at least 60 IPOB members were killed and 70 injured during the Biafra Remembrance Day rallies in Asaba, Nkpor, Ogidi and Onitsha. IPOB members had gathered at different locations to march to Onitsha and were stopped by soldiers. Soldiers shot at the unarmed and peaceful protesters, including in the back. The exact number of deaths remains unknown as some of the bodies were allegedly taken away by soldiers and buried in one of the cemeteries located inside Onitsha Army Barracks, while others were dumped inside Asaba swamps or abandoned in clinics, included the FMC in Asaba.

45. On 14 September 2017, a military operation was carried out at the family home of the IPOB leader, Nnamdi Kanu, in Afara-Ukwu (Abia State), where IPOB followers had gathered to take part in a peaceful vigil. Highly armed soldiers reportedly surrounded the compound and shot live ammunition. Soldiers reportedly killed around 10 persons (estimations vary). A human rights activist who visited the compound after the incident said they counted 48 bullet holes in the house. Further, four cars parked in the compound were riddled with bullets. Immediately after the incident, the IPOB leader went in exile; and some of his followers remain disappeared since then. A week later, a Federal High Court in Abuja proscribed IPOB and designated it as a terrorist group.

C. Accountability crisis and impunity

46. Since his election in 2015, President Buhari has frequently stated that he would ensure accountability for human rights violations, but to date, the government has not fulfilled this promise, thus continuing a decades' long and countrywide pattern of establishing commissions of inquiry which did not have the appropriate mandate or resources¹¹ to investigate and prosecute. The reports and outcomes of panels and commissions of inquiry remain too often hidden from the public. Military panels remained 'internal', and Presidential reports are not made public after the presentation to the President. Further, when reports have been made public, the authorities have largely failed to implement their recommendations. In most cases, they did not even publish a policy response.¹²

47. The Special Rapporteur is concerned that by failing to make public the reports and implementing the recommendations, the government is contributing to the perpetuation of violations throughout the country. This was also the finding of the 2012 Presidential Committee on the Security Challenges in the North-East Zone of Nigeria (the Galtimari Committee), set up to analyse the crisis in northeast Nigeria and review operations by security forces, which urged the government to "consider the imperative of implementing White Paper Reports of various committees" which had "submitted useful recommendations in the past, but yet to be acted upon."¹³ While the government accepted this recommendation, they

¹¹ They have limited capacity to conduct thorough forensic investigations, including into photographic and video evidence. Instead, panels primarily rely on victims and witnesses to submit memoranda or testify in person.

¹² Presidential Advisory Committee report, 2010, para 2.0161.

¹³ Report of the 2012 Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, para 175.

did not implement it. In the following years, the 2013 Turaki committee¹⁴ and 2016 Kaduna State Judicial Commission of Inquiry¹⁵ repeated the same recommendation.

Long history of investigations

48. The use of investigations and inquiries has a long history in Nigeria. For example, in 1999, after the country's return to civilian rule, the new administration established a Human Rights Violations Investigation Commission (the "Oputa Panel"). This panel of inquiry had wide-ranging powers to investigate the causes, nature and extent of human rights abuses between 1966 and 1999, to identify perpetrators and 'redress the injustices of the past' and "prevent and forestall future violations".¹⁶ But the Oputa Panel lacked the judicial power to compel testimony and could not act when three former heads of state refused to cooperate. After the Oputa Panel presented its report to the government in 2002, the government failed to implement it. The then-Attorney General was quoted describing the panel to be "illegal and unconstitutional".¹⁷ The panel's recommendations, especially those relating to criminal prosecutions and compensation of victims, were not adopted and implemented by the government.

49. In 2008, a court ordered the Inspector General of Police (IGP) to investigate former president Olusegun Obasanjo to determine his role in the November 1999 military reprisal attack on the village of Odi, Bayelsa state, in which at least 200 people died, and the whole village was burned down. The government refused to prosecute those responsibly. The IGP disregarded the court order to investigate the former President's role, and to date, no individual has been prosecuted for the Odi killings.¹⁸

50. A similar pattern can be seen in the case of the judicial commission of inquiry into the Zaki Biam massacre in Benue state, where soldiers in a carefully planned attack killed up to 200 people on 22 October 2001, in response to the murder of 19 soldiers in the area ten days earlier.¹⁹ Despite international pressure on the Nigerian government to conduct "rapid, impartial and effective investigations" into the issue,²⁰ President Obasanjo set up a commission of inquiry focusing on the inter-community conflict that preceded the soldiers' actions, thus avoiding to investigate the reprisal attack. The report was never made public.

51. As highlighted by the then Special Rapporteur in 2006, the Nigerian authorities use inquiries to present a façade of official action, which never results in a criminal justice process. This is evident from the series of investigations around the Plateau state crises between 2001 and 2010. In response to the thousands of deaths in inter-communal violence, the authorities set up at least three presidential inquiries and several state and federal legislative inquiries. Yet, the government never implemented the recommendations of these panels on criminal prosecution. One of the 2010 Presidential Advisory Committee findings was that "the non-implementation of past reports of the Judicial Commissions of Inquiries is a factor in the recurrence of the crises".

¹⁴ 2013 Presidential Committee on Dialogue and Peaceful Resolution of Security Challenges in the North (the Turaki Committee). The Turaki Committee was given the mandate to "constructively engage" key members of Boko Haram; define a framework for resolving insecurity in the country; develop a framework for granting amnesty; set up a disarmament framework; develop a victims' support programme; and develop mechanisms for addressing underlying causes of the insurgency.

¹⁵ The "Zaria Commission", set up to investigate the clash between the Nigerian army and members of Islamic Movement of Nigeria (IMN).

¹⁶ Report of the Oputa Panel. Available at: <https://www.dawodu.com/oputa1.htm>. The report was made available online by civil society.

¹⁷ https://www.nigerianmuse.com/nigeriawatch/oputa/?u=Falana_legal_support_Oputa.htm.

¹⁸ Victims obtained a court-ordered compensation against the government, but they were paid half of the sum and only after the judgment had been registered in a UK court.

¹⁹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/106/40/PDF/G0610640.pdf?OpenElement>, para 61.

²⁰ Human Rights Watch, Nigeria: Military revenge in Benue: A population under attack, 2001 p. 23.

Commissions of inquiries and other panels in north-eastern Nigeria

52. Between 2009 and 2018, the Nigerian authorities have set up at least 22 commissions and panels of inquiry into allegations of crimes under international law in northeast Nigeria, including the Federal Government, State Government, the military and the Senate. The National Human Rights Commission (NHRC) has set up at least four inquiries between 2013 and 2018.

53. None of the commissions of inquiry appeared to have had the mandate to identify perpetrators by name and recommend them for prosecution by the justice ministry. The one exception is the prosecution of hundreds of suspected “Boko Haram members” held in Kainji military detention. Most of them were reportedly civilians caught in the conflict, charged with minor offences such as membership of a terrorist organisation or failure to report information to the authorities. Human rights organisations allege that these trials were sham proceedings, “organised to establish legal cover for the thousands of people who had already spent years in unlawful and arbitrary detention, and to hide the Nigerian authorities’ failure to investigate and prosecute individuals who bear the greatest responsibility for Boko Haram crimes against civilians”.²¹

Military investigating itself

54. The authorities have frequently relied on military investigations into allegations of human rights violations by the armed forces. The most significant is the Special Board of Investigation (SBOI), set up in 2017 by the Chief of Army Staff under the armed forces act and tasked to investigate a wide range of allegations of human rights violations across the country.²² The Terms of Reference of the SBOI did not include the mandate to identify and recommend individuals for investigation or prosecution or to recommend a remedy for survivors and relatives. Rather, it tasked the board to “Determine the veracity of the report by human right groups in relation to the allegations against some retired senior officers.”²³

55. In June 2017, the SBOI presented its findings to the media and made public a summary. It “cleared” the officers against whom there were allegations of war crimes or their potential command responsibility for crimes committed by their subordinates. The SBOI found that the detention facilities were overcrowded and unsanitary, and it did find evidence of deaths in custody. It stated that the delay in the trials and denial of access to lawyers was unacceptable and violated human rights. However, the SBOI found no evidence of arbitrary arrests or extrajudicial executions of detainees. This conclusion runs contrary to the many allegations that the Special Rapporteur received, some of which have been well documented by others.²⁴

56. Another major inquiry was the 2017 “Presidential Investigation Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement” (PIP), tasked to investigate the armed forces’ compliance with human rights obligations in the whole of Nigeria.²⁵ Its mandate indicates that the PIP was meant to be an inquiry into systemic issues and not an investigation into specific allegations with the intent of collecting evidence for criminal prosecution.²⁶

²¹ Amnesty International, *Willingly unable*, 2018, p. 5.

²² <https://www.vanguardngr.com/2017/03/army-sets-panel-investigate-alleged-ex-judicial-killings-rights-violations-personnel/>.

²³ Amnesty International, “Willingly unable: ICC preliminary examination and Nigeria’s failure to address impunity for international crimes”, 2018, pp. 21–22.

²⁴ <https://www.army.mil.ng/full-text-of-media-briefing-by-maj-gen-ne-angbazo-on-report-of-special-board-of-inquiry-to-investigate-alleged-human-rights-violations/>.

²⁵ ICC, “Report on Preliminary Examination Activities 2017” https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf.

²⁶ Terms of Reference: “review the rules of engagement of the Armed Forces of Nigeria and the extent of compliance with these; investigate alleged acts of violations of international humanitarian law and international human rights law (under the Nigerian Constitution, the Geneva Convention Act, the African Charter Act and other laws) by the Armed Forces in local conflicts and insurgencies; investigate the conduct and discipline of the Armed Forces in local conflicts and insurgencies;

57. The panel invited witnesses and victims to submit memoranda and present these during 27 public hearings in courts; witnesses testified under oath and were cross-examined by a counsel for the Panel and military. There was no pro bono legal representation to protect the interests of victims and witnesses or cross-examine or challenge witnesses or “evidence” presented by the military. The panel presented their report to the presidency in February 2018. The report has to date not been made public, and it is not clear what steps the government has taken to implement any of the recommendations.

58. The Special Rapporteur heard from many victims who presented their cases to the PIP but never heard about the outcome. They said they felt frustrated that time and again, the government asked them to take the risk to speak out without seeing any tangible change to their situation.

Kaduna State Judicial Commission of Inquiry

59. The Kaduna State Judicial Commission of Inquiry, set up in 2016 to investigate the clash between the Nigerian Army and members of the Islamic Movement of Nigeria (IMN), concluded that the Nigerian army used “excessive and disproportionate force”, which resulted in “the large loss of lives” and did not comply with its own Rules of engagement.²⁷ Moreover, the order for the operation did not comply with the armed forces act.²⁸ As all evidence had been destroyed, the Commission could not do a forensic investigation of the crime scene. However, they did not order to exhume the bodies for forensic investigation and identification but only visited the mass grave’s location and interviewed witnesses of the mass burial.

60. One of the commission’s main recommendation was that both the Nigerian army members suspected of being responsible for killing the 347 IMN members and the IMN members suspected of having killed one soldier should be brought to trial.²⁹ The commission did not name individuals who should be prosecuted but instead recommended that the Federal government set up an independent body to identify the army members who participated in the killings with a view to prosecution.

61. In its whitepaper, the Kaduna state government accepted all recommendations around the investigation and prosecution of IMN members but limited itself to “note” the recommendation that members of the Nigerian army should be prosecuted.

62. The Federal government has been silent about the investigation and the many recommendations that required their response. In August 2016, President Buhari released a statement in which he promised an appropriate response.³⁰ However, no further action has been taken, and the commander of the 1st Division, who is suspected of giving the order for the cordon and search operation, was promoted. To date, no person has been charged or prosecuted for the killings of IMN members in Zaria.

Failure to prosecute

63. The lack of prosecutions of members of the security forces suspected of grave human rights violations fits in a countrywide pattern. To date, not a single military official has been tried before a civilian court for crimes under international law. The Nigerian authorities fail to transparently investigate and prosecute the allegations of grave human rights violations committed by the security forces before civilian courts. Even in cases where there is clear

recommend means of preventing violations of international humanitarian law and international human rights law in conflict situations; and to make other recommendations as necessary.” Inaugural Speech by Justice BA Georgewill, Chairman of the Presidential Investigation Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement, 11 September 2017.

²⁷ 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 12 and Monday 14 December 2015. The commission presented its final report on 15 July 2016 to the Kaduna State governor. Available at: <https://kdsg.gov.ng/kdsg-releases-zaria-inquiry-report/>.

²⁸ Ibid, para 2.2.1.

²⁹ Ibid. Chapter 4.3.

³⁰ <https://www.premiumtimesng.com/news/headlines/208701-zaria-massacre-months-silence-buhari-promises-appropriate-response.html>.

evidence of atrocities and the name of the unit and individual perpetrators is known, the authorities have been unable to ensure that perpetrators are investigated and prosecuted. Instead, the authorities have allowed the military to self-investigate serious crimes under international law.

64. For example, the authorities admitted that Boko Haram's leader Mohammed Yusuf was "killed in police custody" in 2009, promising that "as soon as the investigative process is completed, those found wanting will be sanctioned accordingly".³¹ Photos of his dead body show he was handcuffed. A committee was set up in August 2009 to investigate the killing, but its findings were never made public. However, five police officers, including two Assistant Commissioners of Police, were charged in July 2011 with committing a "terrorist act" for the unlawful killing of Mohammed Yusuf. In December 2015, a court discharged the five accused because the prosecution failed to establish a prima facie case against them.³²

65. Between 2014 and 2015, it has been reported that hundreds of soldiers and officers have been court-martialled in secret, mostly for refusing to take orders or cowardice, and on rarer occasions on charges of murder and rape. However, these trials have been held in secret, under circumstances that raise significant concerns regarding fair trial guarantees for both the suspects and their victims.

66. Countrywide, there is a pattern that even the perpetrators of well documented extrajudicial execution are never brought to justice, even where there appeared to be evidence against them. For example, a well-documented case of extrajudicial executions by the police, the "Apo 6" case, highlighted in detail in 2006 by the then Special Rapporteur in his mission report, only came to prosecution through a private prosecutor. Junior officers had testified that they had acted on the orders of their commander. Five of the six officers involved were charged with criminal conspiracy and culpable homicide. After a decade long trial, in March 2017, only two junior officers were found guilty of culpable homicide. The other accused persons, including the commander, were acquitted on the grounds of contradictory testimony and insufficient evidence. In November 2017, the police reinstated the commander with his rank and accumulated salaries restored, and in March 2018, he was promoted.³³

67. Likewise, the Special Rapporteur received many reports of extrajudicial executions in SARS Awkuzu in Anambra state. For years, civil society has asked the authorities to investigate and prosecute the officer in charge of this station. As far as the Special Rapporteur could confirm, this never happened. Instead, to avoid scrutiny, the police transferred him to Bauchi state in 2016. After his retirement in 2018, he returned as the Anambra state governor's security advisor. In July 2020, the NHRC announced an investigation following a complaint about an extrajudicial execution in SARS Awkuzu under his leadership. The governor dismissed him in October 2020.³⁴ He was summoned to appear before a judicial panel in December 2020 but did not attend.

Trials of Boko Haram fighters

68. Since 2017, three "mass trial" sessions have taken place before the Federal High Court of Abuja sitting in Wawa military cantonment in Kainji, Niger State. These trials were characterised by severe shortcomings and raised concerns that many of the suspects may have been civilians against whom there was no evidence. The judges discharged hundreds of suspects, but they were reportedly not released from detention but held in some cases for years before they were handed over for rehabilitation and release. They did not prosecute any high-ranking Boko Haram commanders. Victims and witnesses of Boko Haram crimes were not invited to testify.

69. According to Amnesty International, only around ten Boko Haram suspects have been convicted of serious crimes such as 'terrorist acts', killings, or hostage-taking since Boko

³¹ Statement by Attorney General of the Federation and Minister of Justice, United Nations Human Rights Council, Geneva, Switzerland, August 13, 2009.

³² *Federal Government of Nigeria v ACP JB Abang and ors* (Suit No. FHC/KD/10C/2011).

³³ <https://www.premiumtimesng.com/news/top-news/250646-apo-six-reinstated-officer-charged-murder-abuja-traders-police.html>.

³⁴ Sahara Reporters, *Awkuzu: Untold Stories Of SARS' Deadliest Den*, October 2020.

Haram's conflict started in 2009. Hundreds of people charged under the flawed Terrorism Prevention Act have been found guilty of membership, or supporting Boko Haram, for example, by providing or selling goods or logistical support or not providing information on Boko Haram members or activities to the Nigerian authorities.³⁵ Due to the opaque military screening in northeast Nigeria, mass arrests, and the frequent arrest and detention of civilians escaping Boko Haram territory, a high percentage of people in military detention may never have been affiliated with Boko Haram.

70. On the other hand, fighters who hand down their arms go through a demobilisation, disassociation, reintegration, and reconciliation (DDRR) programme coordinated by the Defence Headquarters, Operation Safe Corridor. Hundreds of suspected Boko Haram fighters have been deradicalized without being charged for any crime.³⁶ Nigeria has offered this amnesty and rehabilitation for "repentant" members of the group³⁷ without indicating how they defined "repentance" or decided who could go for rehabilitation. Such an unregulated and opaque process of amnesty creates an opportunity for impunity for the perpetrators of international crimes.

71. None of these initiatives seems to include the voice of survivors of serious human rights violations and crimes under international law. The authorities are yet to develop a strategy to offer thousands of survivors and victims of human rights abuses access to justice and transformational reparations.

³⁵ Amnesty International "Willingly unable", 2018.

³⁶ <https://www.icirnigeria.org/repentant-boko-haram-a-look-at-operation-safe-corridor-deradicalisation-and-rehabilitation-camp/>.

³⁷ <http://www.army.mil.ng/operation-lafia-dole-troops-arrest-3-boko-haram-terrorists/>.