

# **NIGERIA: TRAPPED IN THE CYCLE OF VIOLENCE**

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*Cover photo:* Bodies dumped by the roadside on Sir Kassim Ibrahim Way, Maiduguri, Borno state, August 2012.  
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# 1. INTRODUCTION

**“We are in the middle of two things. If you take a look at your right or you take a look at your left both of them they are deadly. It’s a lose lose situation.”**

A civil engineer, aged 32 from Maiduguri, whose brother was killed by security forces in June 2012.<sup>1</sup>

Since 2009, acts of violence by the Islamist armed group known as Boko Haram have been carried out across northern and central Nigeria with increasing sophistication and deadliness.

Nigeria’s security forces have perpetrated serious human rights violations in their response. Hundreds of people accused of links to Boko Haram have been arbitrarily detained without charge or trial; others have been extrajudicially executed or subjected to enforced disappearance.

At the same time, the Nigerian government has failed to adequately prevent or investigate the attacks or to bring perpetrators to justice; and victims have not received prompt and adequate reparation and remedy.

The cycle of attacks and counter attacks has been marked by unlawful violence on both sides with devastating consequences for the human rights of the people trapped in the middle.<sup>2</sup>

I.S., an immigration officer working for the Nigerian Immigration Service (NIS), was shot dead at 5am on 22 June 2012 in Maiduguri, Borno state, as he was entering a mosque for early morning prayers. He was 44 years old and married with five children aged between one and 13. His family told Amnesty International they believe he was killed by members of Boko Haram because he worked for NIS and that he received threats before he was killed. No one has been arrested over his death.<sup>3</sup>

Almost a year earlier, on 29 July 2011, his younger brother, A.S., also an employee of NIS, was arrested in Maiduguri and has been in military detention since then. He has not been formally charged with a crime, although his family has been told he is accused of associating with a suspected member of Boko Haram. His mother was able to see him just once after his arrest, in December 2011; since then she has been refused every time she tried to visit. The family engaged a lawyer but according to the family the lawyer said they could not help because of the state of emergency (see box on page 8).<sup>4</sup>

The report urges Nigeria to ensure that all measures taken in the name of national security are implemented in accordance with international human rights law. Illegal killings and other abuses of human rights by armed groups do not absolve governments of the responsibility to conduct security operations in a manner that is fully consistent with their human rights obligations.

The report also calls on Boko Haram to cease all activities that result in human rights abuses.

## **HUMAN RIGHTS ABUSES BY ARMED GROUPS**

While human rights treaties are directly binding as a matter of international law only on states, when a group such as Boko Haram engages in conduct that would constitute a violation of human rights if it were perpetrated by a state, Amnesty International condemns the acts as human rights abuses.

Amnesty International calls on all armed groups, including Boko Haram, to respect the human rights recognized under international law. Amnesty International also calls on armed groups to respect in all circumstances the fundamental principles of humanity reflected in the rules of international humanitarian law, a body of international law that does apply directly to armed groups but only in situations of armed conflict. The violence in Nigeria does not appear to have reached the level where it would constitute an armed conflict at this time.

Individuals acting on behalf of the Boko Haram or other armed groups that commit violent acts will also generally be acting in violation of Nigerian criminal law and so can be arrested and prosecuted where there is sufficient admissible evidence under Nigerian law for their crimes, in a manner that complies with Nigeria's international human rights obligations. Some acts by individuals acting pursuant to or in the furtherance of a policy of an armed group, or of a state, can also in certain circumstances constitute crimes under international law, such as crimes against humanity or, in situations of armed conflict, war crimes. Acts such as murder, torture, enforced disappearance and other inhumane acts may constitute crimes against humanity if committed as part of a widespread or systematic attack directed against any civilian population, particularly in furtherance of an organizational policy (of the state or armed group) to commit such attacks.<sup>5</sup>

This report documents human rights violations and abuses by state and non state actors in the context of insecurity and violence in northern and central Nigeria. It sets out recommendations for the Nigerian government, focusing on the government's obligations to protect people within its jurisdiction from human rights abuses by non-state actors and to ensure that human rights violations are not perpetrated by its security forces in the name of national security.

## 1.1 METHODOLOGY

This report presents research gathered by Amnesty International during five visits to Kano and Borno states and the Federal Capital Territory (FCT) between February and July 2012; and during numerous visits to Nigeria, including to Borno and Bauchi states and FCT, between 2010 and 2011. It also presents research gathered through telephone interviews and the continuous monitoring of media reports and government and Boko Haram statements.

Much of the report examines the human rights situation in Maiduguri, Borno state. Maiduguri has seen the highest number of deaths connected to the violence.<sup>6</sup> It was beyond the scope of the research missions upon which this report is based to cover each state in Nigeria where attacks have taken place and where security forces have perpetrated human rights violations in their response. However, information received by Amnesty International and media reports monitored by the organisation give rise to serious concerns that the pattern of human rights violations by security forces – and human rights abuses by Boko Haram - is also occurring in other states in Nigeria.

Amnesty International delegates conducted detailed interviews with people who had been detained by the security forces, and with family members of people who had been arrested and detained by the security forces; who had disappeared in custody or who had been killed. Delegates also had detailed discussions with residents whose houses had been burnt down by security forces.

They interviewed victims of attacks by Boko Haram and family members of people who had been killed by suspected members of Boko Haram.

Delegates met with the Minister of Police Affairs, the Minister of Interior, the Senior Special Assistant to the Attorney General of the Federation and Minister of Justice, the Inspector General of Police, representatives from the Office of the National Security Adviser, the Defence Headquarters Spokesperson and the Commissioner of Police for Borno state. They also spoke to judges, magistrates, doctors, teachers, health and education professionals, journalists, lawyers and representatives of non-governmental human rights organizations.

Amnesty International requested but was not granted access to prisons, police stations, military and State Security Service (SSS) detention facilities in the course of this research.

Research for the report also draws on court cases, legislation, policy documents, medical reports and video and photographic evidence.

Amnesty International shared its findings with government authorities, both verbally and in writing in advance of publication. The organization requested further information on specific cases as well as inviting official response or comment. No responses were received.

Amnesty International thanks everyone who agreed to be interviewed by their researchers. In particular, Amnesty International wishes to express its gratitude to the victims and relatives of victims who agreed to share their stories.

Many of the victims, family members and witnesses who spoke to Amnesty International, as well as some of the lawyers and human rights defenders, asked not to be named in the report for fear of reprisals from state or non-state actors. Consequently, names of several witnesses have been changed or omitted for their own protection.



## 2. BACKGROUND

### **“Everything escalated because of the extrajudicial execution of Yusuf.”** Lawyer, Maiduguri.<sup>7</sup>

The Islamist armed group Jamā'atu Ahlis Sunnah Lādda'awatih wal-Jihad [People Committed to the Propagation of the Prophet's Teachings and Jihad], commonly referred to as Boko Haram [Western education is forbidden],<sup>8</sup> was established in 2003 under the leadership of Islamic cleric Mohammed Yusuf.<sup>9</sup>

Yusuf preached that the country's ruling class was marred by corruption and advocated for the creation of an Islamic state (an Islamic government and Islam as a state religion).<sup>10</sup>

On 11 June 2009, a group of Yusuf's followers who were part of a funeral procession became involved in an argument with officers from a joint police and military unit in Maiduguri, called Operation Flush.<sup>11</sup> The officers opened fire on the group and 17 people were injured.<sup>12</sup> Following the shooting, Mohammed Yusuf released several videos vowing to take revenge.<sup>13</sup>

On 26 July 2009, members of Boko Haram attacked a police station in Bauchi, Bauchi state. Over the next few days Boko Haram carried out coordinated attacks on police and government targets in Borno, Bauchi, Yobe and Kano states. Clashes between members of Boko Haram and security forces continued all week, with open gun battles in the street. The police and military were implicated in serious human rights violations including summary executions and other unlawful killings. By the end of the week more than 800 people had been killed by the police and Boko Haram, including over 30 police officers,<sup>14</sup> members of Boko Haram who had been actively taking part in the fighting, other apparently unarmed people, and bystanders caught in the cross-fire. In February 2010, the Al Jazeera news channel broadcast video footage, taken in July 2009 in Maiduguri, which showed police shooting and killing unarmed people who were lying on the ground.<sup>15</sup>

Mohammed Yusuf was arrested on 30 July 2009 in Maiduguri and was filmed and interviewed while in custody. Later that day the police announced that he had been killed while attempting to escape. Photographs of the body suggested that he had been handcuffed at the time of his death.<sup>16</sup>

On 3 August 2009 then President Yar'Adua instructed the National Security Adviser to investigate Yusuf's death. In a statement given at the Human Rights Council in Geneva on 13 August 2009, the then Attorney General of the Federation and Minister of Justice, Michael Kaase Aondoaka, said that Mohammed Yusuf had been “killed in police custody.” He also said that the Nigerian government “condemns in its entirety, the unfortunate circumstances that led to the death of Mohammed Yusuf in police custody.” He added that a committee had

been set up in August 2009 to “investigate the circumstances leading to the crisis including the alleged killing of the leader of Boko Haram and the slaughter or killing of over 17 police officers.”<sup>17</sup> In 2012, in response to the findings of a subsequent committee established to look into the violence, the government denied that Yar’Adua had ordered an enquiry, stating that the then President had instead ordered police to investigate the incident.<sup>18</sup> Five police officers, including two Assistant Commissioners of Police, were charged in July 2011 with the unlawful killing of Mohammed Yusuf.<sup>19</sup> Four of the police officers were released on bail while one was remanded in prison.<sup>20</sup> The case is still ongoing. Little has been done to bring to justice those people responsible for the other killings.

In August 2009, the then Governor of Borno state also established a state level Committee of Inquiry into the July 2009 crisis. The report of the inquiry was never made public.<sup>21</sup>

By July 2010, Mohammed Yusuf’s followers had regrouped and the violence quickly escalated. Abu Shekau, previously deputy to Yusuf, is believed to be the current leader of the group. On 21 June 2012, the US Department of State designated three Boko Haram leaders, including Shekau, as ‘Specially Designated Global Terrorists’ triggering sanctions under US law.<sup>22</sup>

## STATE OF EMERGENCY

In January 2012, President Goodluck Jonathan declared a state of emergency in 15 Local Government Areas (LGAs) across four states.<sup>23</sup> Under the Constitution, a state of emergency permits the president to confer additional powers to “duly authorized persons” or make any other order “necessary or expedient for the purpose of maintaining and securing peace, public order, public safety and good governance in the emergency area”<sup>24</sup> and to derogate from particular sections of Nigeria’s constitution.<sup>25</sup> The Emergency Powers Regulations, which set out the additional powers granted under the state of emergency, were published on 27 April 2012. Among the provisions are the detention of suspects; the taking of possession or control of any property in the emergency area; the entry and search of any premises; and the payment of compensation and remuneration to people affected by the order. The state of emergency had a six months time limit under the Constitution (if not renewed by the National Assembly) which elapsed at the end of June 2012. The National Assembly did not renew the declaration, and the President officially recognised the end of the state emergency and the cessation of application of the Emergency Powers Regulations on 18 July 2012.

On 2 August 2011, the Secretary to the Government of the Federation inaugurated a Presidential Committee on the Security Challenges in the North-East Zone of Nigeria. The Committee submitted its final report to the President in September 2011. In May 2012, a White Paper on the Report was published, listing key findings and recommendations of the Committee and the government’s response to them.

In May 2012, the then Minister of Defence announced that Nigeria had signed Memoranda of Understanding (MOU) with 17 countries “on military cooperation for joint military exercises and exchange of training programmes” including with Ghana, China, Russia, United States of America, Democratic Republic of Korea, Sao Tome and Principe, Liberia, India, United Kingdom, Germany, France, Pakistan, Belarus, Brazil, Romania, Turkey and Serbia.<sup>26</sup>

## JOINT TASK FORCE

On 12 June 2011 the President established a Joint Task Force (JTF) in Borno state, called Operation Restore Order, mandated, to "restore law and order to the North Eastern part of the country with emphasis on Maiduguri."<sup>27</sup> It comprises personnel from the Nigerian Armed Forces, the Nigeria Police Force (NPF), the Department of State Security (DSS), the Nigerian Immigration Service (NIS) and the Defence Intelligence Agencies (DIA). The JTF commander is seconded from the military, which appears to dominate the JTF.

The Rules of Engagement of the Joint Task Force are not publicly available. Many human rights defenders have complained of not knowing what the JTF are allowed to do, particularly under the state of emergency.<sup>28</sup>

In the White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, the Committee noted "allegations of high-handedness against the JTF, bordering on rape, destruction of property belonging to sect members, extrajudicial killings and harassment and intimidation of Maiduguri residents."<sup>29</sup> One of the Committee's recommendations was that the "Rules of Engagement should be reviewed to reflect the low intensity nature of the military operations, not only in Maiduguri but in all similar operations." The government "noted" the recommendation and said that there are "steps being taken by the Defence Headquarters to investigate the allegations and deal with it appropriately."<sup>30</sup>

To date, Boko Haram has claimed responsibility for attacks in Bauchi, Borno, Gombe, Kaduna, Kano, Mina, Plateau, Sokoto and Yobe states and the Federal Capital Territory. The attacks have not only targeted members of the police and military: civilian government officials, journalists and religious leaders have also been killed, and churches, schools, bars and media houses have been targeted. Prisons have been attacked, with inmates freed and prison guards killed. In 2011, Boko Haram claimed responsibility for bombing the UN offices in Abuja, the Nigeria Police Headquarters and the swearing-in ceremony of President Goodluck Jonathan. Boko Haram has killed more than 1,000 people since 2010, including over 400 people who were not members of the security forces.<sup>31</sup>

Boko Haram's reported demands include the unconditional release of all imprisoned members; the punishment of all involved in the killing of Muhammad Yusuf; and the full implementation of Sharia law.<sup>32</sup>

### 3. ATTACKS BY BOKO HARAM

**“...our war is with the Government that is fighting Islam with the Christian Association of Nigeria (CAN) that are killing Muslims ... and those who helped them to fight us even if they are Muslims. Anyone who is instrumental to the arrest of our members is assured that their own is coming.”**

Message from the leader of Boko Haram, Imam Abubakar Muhammad Abubakar bin Mohammed [also known as Abu Shekau].<sup>33</sup>

Since July 2009, Boko Haram, and individuals or groups claiming to be Boko Haram, have claimed responsibility for bombings and gun attacks across northern and central Nigeria. The group has killed Muslim and Christian clerics and worshippers, politicians, journalists and lawyers, as well as police and soldiers. Boko Haram has claimed responsibility for bombing the UN building and the National Police Force Headquarters in Abuja. The group has attacked churches, school buildings, newspaper offices and prisons, freeing hundreds of prisoners.

Attacks targeting civilians demonstrate disregard for the right to life. All of the violent acts perpetrated by Boko Haram constitute crimes under Nigerian law that the authorities should prevent and prosecute through the ordinary systems of law enforcement and criminal justice, in a manner compliant with Nigeria's international human rights obligations. Attacks targeting civilians and civilian buildings are also contrary to the fundamental principles of humanity as reflected in international humanitarian law. When perpetrated as a part of a widespread or systematic attack against a civilian population, such acts can also constitute crimes against humanity, when they meet the requirements of Article 7 of the Rome Statute. This may be the case with respect to the Boko Haram campaign of attacks deliberately targeting Christian civilians.<sup>34</sup>

#### A CLIMATE OF FEAR

The use of violence by Boko Haram in response to adverse comment or criticism and to deter anyone from assisting the security forces means that many people are too frightened to talk openly about Boko Haram abuses. Some people have fled their homes, neighbourhoods and even cities following direct threats or for fear of being caught up in the violence. A resident of Maiduguri told Amnesty International that in his area Boko Haram had warned residents “that if you're not comfortable living there [with them], you better leave.”<sup>35</sup>

Intimidation of the general population has undermined people's rights to privacy and family life, damaged community ties and family networks, and consequently significantly impaired many people's quality of life.

The climate of fear and insecurity has forced many journalists, lawyers and human rights defenders to scale down or stop their activities, or flee the area entirely.

Amnesty International interviewed several lawyers who had closed their practices or relocated to Abuja, taking only a few cases in Maiduguri. Others had ceased working on criminal and human rights cases for fear of reprisals.

One lawyer told Amnesty International: "How do you work without compromising your own safety? Five months ago, we had access to detention facilities, I left the police station and 30 minutes later it was attacked. I don't know where to start. I don't know who is protecting you and who is after you so I have not been following cases for a while. I don't know who to trust."<sup>36</sup>

### **MAKING THREATS AND CLAIMING RESPONSIBILITY**

Boko Haram – or people claiming to be Boko Haram – often issue warnings and threats to individuals, groups and institutions that they intend to target. Some are made via private correspondence such as by telephone or letter. Others are made publicly via video which is then posted on YouTube or in a statement read over the telephone or sent by email to journalists. Boko Haram – or people claiming to be Boko Haram – have distributed flyers and put up posters with messages or warnings for local residents. The same methods have been used to claim – or deny – responsibility for specific attacks and acts of violence.

In many other incidents no one has claimed responsibility and without investigation and a criminal trial it may not be possible to determine precisely who was responsible. Often, attacks are attributed to Boko Haram without clear evidence but on the basis that they resemble their pattern of behaviour.

### **3.2 UNLAWFUL KILLINGS**

Since June 2010, people claiming to be Boko Haram have killed over 1,000 people in attacks and assassinations. While most of these attacks targeted members of the security forces, killing hundreds of police, soldiers and SSS, others have targeted local government and state government officials, clerics and Islamic scholars, lawyers, journalists and traders, as well as unarmed civil defence and immigration officials.<sup>37</sup> Some killings have been carried out in the street, by shooting or detonating explosives, with perpetrators escaping on motorbikes or *Keke Napep* [tricycles]; others have been carried out in people's homes, outside mosques and at markets. Boko Haram has also claimed responsibility for gun and bomb attacks on churches, busy markets, shopping centres and bars.<sup>38</sup>

On 28 January 2011, eight people were shot dead, including Engr. Fannami Gubio, the All Nigeria People's Party (ANPP) candidate for Borno state governor, and Alhaji Godi Modu Shriff, the brother of the current governor of Borno state. Boko Haram claimed responsibility for the attacks.<sup>39</sup>

On 6 June 2011, Muslim cleric Ibrahim Birkuti, who had been critical of Boko Haram, was killed by unidentified gunmen outside his house in Biu, Borno state.<sup>40</sup>

On 28 August 2011, the UN headquarters in Abuja was bombed when a car drove into the reception of the building and exploded, causing a wing of the building to collapse. Twenty-three people were killed, including 11 UN staff; 116 others were injured. Boko Haram claimed responsibility in a telephone conversation with reporters.<sup>41</sup>

On 4 November 2011, at least 100 people were reported killed in gun and bomb attacks in Damaturu, the Yobe state capital. Boko Haram members attacked three police stations, including Yobe state police headquarters, two banks and at least six church buildings. A member of Boko Haram claimed responsibility and said that they would continue attacks on federal government until security forces stop the use of excessive force on their members.<sup>42</sup>

According to information received by Amnesty International, five workers at the Kasmi bakery were killed in Maiduguri on 19 April 2012.<sup>43</sup>

## KANO, 20 JANUARY 2012

On 20 January 2012, at least 186 people were killed in Kano when members of Boko Haram attacked security forces at eight different locations, including the zonal and state police headquarters and that of the State Security Service (SSS).<sup>44</sup> The bombings were followed by an exchange of gunfire between Boko Haram and security forces lasting several hours. Among those killed were police officers, their relatives and residents living nearby. A journalist with the news station Channels, Eneche Akogwu, was also shot dead.<sup>45</sup>

Several Kano residents and civil society representatives told Amnesty International they believe that many of the people who died that day were caught in cross-fire between security forces and Boko Haram after the initial explosions, or shot by security forces after the attack.<sup>46</sup>

A journalist and activist based in Kano told Amnesty International: "After the attack at the SSS office, [the security forces] came out and just started shooting sporadically. Shooting at the gate, my friend who is a banker died like that, he was coming back from work and was hit by a stray bullet."<sup>47</sup>

The official number of dead was put at 186; the actual figure may be far higher. One journalist told Amnesty International: "We can't get an exact figure of the numbers killed, some were killed within their areas and people just took the bodies and buried them, some got injured and managed to leave then died later... In the two morgues – Amina Kano teaching hospital and MK – there were 186 dead."<sup>48</sup>

### ATTACKS ON INFORMANTS

**"There was a notice: 'if anybody should show [security forces] where [Boko Haram] are at or tell security operatives they will be killed.'"** Lawyer, Maiduguri.<sup>49</sup>

Local human rights defenders told Amnesty International that several people have been killed by Boko Haram because they were said to have given information to the security forces about Boko Haram members or assisted in the arrest of members. Boko Haram has itself issued warnings to people against passing information to the security forces.<sup>50</sup>

Residents of Maiduguri told Amnesty International that following the 2009 crisis, Ward Heads were instructed to turn-in any Boko Haram member in their domain or they would lose their position. According to one Maiduguri elder "Ward Heads had been going house to house showing security operatives where Boko Haram members live. Most members ran out of the state [in 2009] and their houses were boarded up. Then they came back and they killed Ward Heads."<sup>51</sup>

On 29 Oct 2011, Muslim cleric Sheikh Ali Jana'a was killed outside his home in Maiduguri. Jana'a is reported to have provided information about Boko Haram to security forces.<sup>52</sup>

On the night of 1 February 2012, seven male residents of Kawar Maila Ward, Maiduguri, were reportedly killed by having their throats cut in their homes by people believed to be members of Boko Haram. The spokesperson of the JTF confirmed the incident in a statement to journalists.<sup>53</sup> According to a Maiduguri based human rights activist interviewed by Amnesty International, six people died instantly and one later in hospital.<sup>54</sup> A Boko Haram spokesperson later claimed responsibility in a teleconference with journalists, saying, "We have earmarked 30 of them for execution because they betrayed our group. They exposed our 11 members who were summarily shot dead by the Joint Task Force on Saturday... So, we have succeeded in killing seven and we are sure of killing the remaining 23 any moment from now."<sup>55</sup>

On 20 February 2012, over 20 people were reportedly killed when Baga market in Maiduguri was attacked by gunmen and several bombs were detonated. Boko Haram claimed responsibility two days later in a telephone statement to journalists, in which Abul Qaqa, the group's purported spokesperson, said the attack had been carried out because traders from the market had assisted security forces in the arrest of one of their members.<sup>56</sup>

On 1 August 2012, Boko Haram released a statement threatening women who inform on them. Abul Qaqa stated: "This is a final warning to all of them. By God, whenever we catch any woman spying on us, we would slaughter her like a ram."<sup>57</sup>

### 3.3 ATTACKS ON CHURCHES

Over 20 churches have been attacked and over 200 people killed in attacks on churches across central and northern Nigeria since 2010. Boko Haram has claimed responsibility for many of the attacks<sup>58</sup> and has on numerous occasions explicitly stated their intention to target Christians.

At least three bombs exploded on 24 December 2011 in Jos, the Plateau state capital, killing an estimated 80 people and injuring many more. Boko Haram claimed responsibility. Dozens of other people were killed in gun and machete attacks in a wave of religious and ethnic violence that followed. Several buildings were burned down and businesses were closed for days.<sup>59</sup>

On 25 December 2011, Boko Haram bombed three churches killing 43 people in Saint Theresa Catholic Church in Madalla, a suburb of Abuja.<sup>60</sup> Bombs were also detonated in churches in Jos and Damaturu. Boko Haram claimed responsibility and implied that the purported motivation for the attacks was collective retribution for alleged government abuses against Muslims.<sup>61</sup>

On 10 June 2012, a suicide bomber drove a car into Christ Chosen Church in Jos, killing at least one other person. The Pastor of Christ Chosen Church, who was injured in the explosion, told Amnesty International: "somebody drove in ... they hit the church, the bomb exploded...everything went down... Passers by took me to hospital – people around the church came to pick us, neighbours came. They put me in the vehicle and took me to hospital. Some members even used motorcycles. Some members are still taking treatment there. I stayed [in hospital] for close to a month, I sustained injuries in my hand and leg and my ribs... 100 plus people were injured, 40 seriously, five very seriously, one later died...Now we have no place of worship, our vehicles were burnt to ashes, our property, all the instruments, everything is burnt. Now we are just worshipping in members' compounds. People are scared, some are still very much afraid."<sup>62</sup>

In a statement to journalists, Boko Haram claimed responsibility for the 10 June attack, stating, "We are responsible for the suicide attack on a church in Jos... The Nigerian state and Christians are our enemies and we will be launching attacks on the Nigerian state and its security apparatus as well as churches until we achieve our goal of establishing an Islamic state in place of the secular state."<sup>63</sup>

On 17 June 2012, Boko Haram bombed three church services in Kaduna, killing at least 21 people. Revenge attacks between Christians and Muslims resulted in the deaths of at least 70 more.<sup>64</sup>

### **COMMUNAL AND SECTARIAN VIOLENCE IN THE MIDDLE BELT**

Many of the churches that were attacked were located in Nigeria's middle belt – an already volatile region where attacks and counter-attacks between Christians and Muslims and different ethnic groups have left thousands dead. Since 1999, over 10,000 people have been killed in inter-communal violence in the north and in the middle-belt.<sup>65</sup> In Plateau state, the site of some of the most protracted communal and sectarian violence, there have been significant incidents of violence in 1994, 2001, 2004, 2008, 2010 and 2011, resulting in the deaths of more than 2,000 people.<sup>66</sup> Yet the Nigerian authorities have failed to bring suspected perpetrators to justice or to take effective measures to prevent future violent clashes.<sup>67</sup> Very few people have been convicted of crimes related to the violence. Victims of the violence have not received redress or reparation, including compensation, leaving people destitute and further stoking feelings of resentment and desperation.

Several state and federal inquiries into communal and sectarian violence have been established but their findings and recommendations have never been implemented.<sup>68</sup>

The attacks have led to the closure of churches and impaired people's right to freely practice their religion. A pastor of a church in Bauchi told Amnesty International, "Over 30 churches have closed in Borno, so people don't have a chance to serve God the way they want. This is a crucial problem happening in the north... [My] church in Bauchi was threatened... We were told [by police] to work on the issue of security by increasing the height of our own fence, but we need blocks, barbed wire, building materials. We are only able to do a little... there are only a few of our membership, many people have already left the place, we are just left at the mercy of god."<sup>69</sup>



### 3.4 JOURNALISTS UNDER ATTACK

"At the station we know we are living between death and life." Radio presenter, Kano<sup>70</sup>

Boko Haram has targeted media houses in bomb attacks and has killed and threatened journalists.

Attacks on journalists, including murder, intimidation and threats, as well as the bombing of media houses, have undermined independent journalism, freedom of expression and consequently the free flow of information in Nigeria.

#### ATTACK OF THISDAY NEWSPAPER

On 26 April 2012, Boko Haram bombed the offices of the Nigerian newspaper *Thisday* in Abuja and a building housing three newspapers, including *Thisday*, in Kaduna. At least seven people died. Boko Haram claimed responsibility in an interview with the online newspaper *Premium Times*, saying "We have repeatedly cautioned reporters and media houses to be professional and objective in their reports. This is a war between us and the Government of Nigeria; unfortunately the media have not been objective and fair in their report of the ongoing war, they chose to take sides." Boko Haram went on to list a number of allegedly incorrect reports about their activities or statements.<sup>71</sup>

On 1 May 2012, Boko Haram issued a further warning to 11 national and international media houses: "We will take revenge on them by God's grace, some of these media houses have been categorized into three groups. The first group is the likes of *Thisday* whose offences are big. The second group we will also attack soon are *Punch*, *Daily Sun*, *Vanguard*, *Guardian*, *Nation*, *Tribune* and *National Accord*, which are all newspaper houses. There is also *Voice of America (VOA) Hausa radio*. All these media houses we will attack them including their staff and offices, by God's grace. *VOA Hausa* for instance has recently started campaigning for people to support the government against us by exposing us. The next group that are on the verge of joining this list who if they are not careful we will attack very soon include *Leadership*, *Daily Trust*, *Peoples Daily* and *RFI (Radio France international)*."<sup>72</sup>

The threats and intimidation mean that journalists are increasingly unwilling or unable to report news stories about the security situation. Journalists told Amnesty International that the lack of access to a Boko Haram spokesperson meant they were unable to seek their official response.<sup>73</sup>

Boko Haram has issued several threats publicly and directly to journalists, warning them to change their reporting or face attack. Several journalists interviewed by Amnesty International said they had received direct or indirect threats from Boko Haram following stories they had published or broadcast. One Kano based journalist told Amnesty International: "Once we ran a story that JTF arrested five Boko Haram and the next day my colleagues were telling me that Boko Haram called some of my colleagues warning us. One local station doesn't cover anything concerning this issue because of that threat."<sup>74</sup>

On 22 October 2011, Zakariyya Isa, a cameraman with the Nigerian Television Authority was shot dead in front of his house in the Bulunkutu area of Maiduguri. Boko Haram claimed responsibility for the killing; Abul Qaqa, the group's spokesperson, said he was killed for being an informant.<sup>75</sup>

Another journalist living in Kano told Amnesty International: "We live under fire every day. As we go out, we have the fear of being attacked or running into a confrontation [between Boko Haram and the security forces]."<sup>76</sup>

## FREEDOM OF EXPRESSION

Article 9 of the African Charter on Human and Peoples' Rights guarantees the right to receive information and to express and disseminate opinions. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the rights to hold opinions and freedom of expression; "this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

The Nigerian government is obliged not only to refrain from itself violating the right to receive information and to express and disseminate opinions, but also to protect journalists and media houses against whom specific threats of violence have been made by non-state actors such as Boko Haram.

Faced with the threat of human rights abuses including violations of their rights to life and personal security, many journalists are now reluctant to visit scenes of attacks by either Boko Haram or the military. Others are leaving affected areas altogether.

One Kano based journalist told Amnesty International "Before [the *Thisday* bombing] we would go to scenes [of JTF attacks] and talk to people [to see if what the JTF say is true]...but now I wouldn't go to dig further, they [Boko Haram] have come out to say the media are their enemies. So why go to an area suspected to be [full of Boko Haram]?"<sup>77</sup>

## CHALLENGES TO JOURNALISM FROM THE STATE

While the main risks faced by journalists appear to come from Boko Haram, journalists also face challenges originating with government security forces. One told Amnesty International: "Being a journalist is very dicey. We are in a serious dilemma. Even the security man can shoot you. It's not easy to operate here."

A journalist described an incident with the Kano State Security Service (SSS) to Amnesty International: "After the bomb blast at the SSS office, I went there. The SSS guy at the gate said I could pass... he let me pass and another SSS guy shot at me and shot again. He said 'down, lie down,' the other guy said 'it's OK' and he said, 'don't trust anyone' and he fired in the air."<sup>78</sup>

Journalists described operating in a context of fear and told Amnesty International: "We're accused on both sides. Boko Haram has said they are not happy with reporting. The IG [Inspector General of Police] has also [said] we are giving too much attention to insurgents."<sup>79</sup>

The Nigerian authorities are reluctant to give information about incidents and are believed to regularly under-report the number of casualties. A journalist in Kano told Amnesty International, "Security agencies threaten you or deny you a balance for news. When you call to confirm they don't cooperate. They conceal the true information. Usually the official numbers of dead given [by security forces] is much lower. They will say the others are wounded. The Police PRO [Public Relations Officer] will say a different number of people killed. It's the same with the military [JTF] spokesperson."<sup>80</sup>

### 3.5 SCHOOLS BURNED DOWN

**“When they attacked the school they burnt everything, the whole classrooms. They burnt the whole classes and lots of materials, nothing was left. Even school records – everything was burnt... No one ever did any investigation as to who burnt the school.”** The headmistress of a Maiduguri school that was burned down in 2009.<sup>81</sup>

Dozens of schools have been attacked and set on fire in Maiduguri, leaving thousands of children unable to continue their education.<sup>82</sup> Boko Haram has claimed responsibility for several of the attacks.

Between 21 February and 1 March 2012 alone, 10 primary schools were attacked in locations across Maiduguri. In most attacks, the school buildings were so badly damaged that they could no longer be used. Gwange One Primary School, Junior Secondary School and Gwange Three Primary School were attacked on 28 February; Success Private School and Sunshine Primary School were attacked on 1 March 2012; Gomari Custin, Kulagumna Primary School, Budum Primary School, Abba Ganaram One and 11 Primary School, Ngomari London Chiki Primary School and Maiduguri Experimental Primary School were attacked in February 2012.<sup>83</sup> Boko Haram claimed responsibility for some of the attacks, saying they were in retaliation for the arrest of teachers of *Tsagaya* [Quaranic] schools by the JTF.<sup>84</sup> Boko Haram spokesperson Abul Qaqa said “We attacked the schools because security operatives are going to Islamiyya schools and picking teachers. We are attacking the public schools at night because we don’t want to kill innocent pupils. Unless [Islamic school] teachers are allowed to be, we would be compelled to continue attacking schools.”<sup>85</sup>

When schools are burned down, it is not only the classrooms that are lost, leaving children with nowhere to learn, but also all the teaching materials and school records. Some schools have been burned two or three times since 2009. Those attacked in 2009 are only just being rebuilt three years later, with pupils receiving lessons in temporary shelters in the meantime.

The destruction and damage to schools has undermined the right to education for thousands of children. Even before the attacks on schools began, the widespread insecurity generated by the constant attacks and fighting had led many parents to send their children away or leave the city, disrupting their children’s education. Many of the children that remain are traumatised and live in fear. The headmistress of one primary and secondary school in Maiduguri told Amnesty International that, of approximately 1,300 children enrolled in her school, only 500 are now attending. The rest have fled with their parents or been sent away. She said many of the children that remain are disturbed: “These children, they are shocked. Even as we are taking our lessons, if they hear the sound of guns they will just run away. Their ears are always outside [of the school] listening to what is happening. If anything happens they will just disappear.”<sup>86</sup>

The attacks on schools constitute a criminal offence under Nigerian law. Deliberately damaging school buildings and thereby leaving schools unable to function or children too afraid to attend school constitutes a serious abuse of human rights, including the right to education. The government of Nigeria is obliged under international human rights law to ensure the right of everyone to education.

## 4. NIGERIA'S SECURITY FORCES: VIOLATING HUMAN RIGHTS WITH IMPUNITY

**“[The soldier] put his gun in [my husband’s] left ear and said ‘say your last prayer,’ then he put the gun in his right ear and said ‘say your last prayer’ and then they put the gun in his nose and said ‘say your last prayer.’”**

F.B. aged 40, resident of Kaleri, Maiduguri. She now lives with her seven children in a shack she has made from the ruins of her former home after it was burnt down by the JTF in July 2011.<sup>87</sup>

Amnesty International has documented serious human rights violations perpetrated by Nigeria’s security forces in the name of countering the threat to the public posed by Boko Haram.

Witnesses interviewed by Amnesty International described seeing people who were clearly no threat to life – unarmed, lying down or with their hands over their head or cooperating – shot at close range by the security forces.<sup>88</sup>

Amnesty International also documented cases of people seen being arrested by the police or Joint Task Force (JTF) who were then found dead, or who were subjected to enforced disappearance.

Amnesty international interviewed people from four communities who claim that members of the JTF set fire to their houses, shops or cars, often following an attack in their area attributed to Boko Haram, and in some cases seemingly as a punitive measure.

Hundreds of people accused of having links to Boko Haram have been arbitrarily detained by the JTF, police and SSS. In many of the cases they have remained in detention for lengthy periods without charge or trial, without proper notification of family members, without being brought before any judicial authority, and without access to lawyers or the outside world.

Investigations have rarely been carried out into allegations of violations by the security forces; in the few cases where investigations have taken place, the findings have not been made public.<sup>89</sup>

People are facing human rights violations at the hands of the very state security forces mandated with their protection.

## 5. EXTRAJUDICIAL EXECUTIONS AND OTHER UNLAWFUL KILLINGS

**“They are just killing men, any youth from 16 years old, if something happens in that area you are gone.”** Lawyer, Maiduguri.<sup>90</sup>

Amnesty International received consistent accounts of witnesses who saw people summarily executed outside their homes, shot dead during operations, after arrest, or beaten to death in detention or in the street by security forces in Maiduguri.

Amnesty International found that the security forces appear to have repeatedly used firearms against people when there is no imminent threat of death or serious injury, and have intentionally used lethal force in circumstances other than when it was strictly necessary to protect life. Such use of firearms and deliberate killing are inconsistent with international standards on use of force in law enforcement, and violate the right to life.<sup>91</sup>

Under international law, every use of lethal force in law enforcement operations, including those that are allegedly accidental, must be subject to an independent and impartial investigation.<sup>92</sup> However, in practice investigations of such killings in Nigeria are rarely carried out or if they are, the findings are not made public.

### 5.1 EXTRAJUDICIAL AND SUMMARY EXECUTIONS

There are no circumstances in which international<sup>93</sup> law allows authorities to kill someone who is already in their custody or otherwise under their control in the absence of a trial which fully meets international standards of fairness.<sup>94</sup> To execute a person in such circumstances is a form of extrajudicial or summary execution, and constitutes a crime under international law for which those responsible must be brought to justice.<sup>95</sup> Several people interviewed by Amnesty International described how they saw people who were clearly no threat to life – unarmed, lying down or with their hands over their head and cooperating with security forces – shot at close range by the security forces.

A resident of Mai Sandari told Amnesty International that in May 2012 he and some nine other residents of the area saw the JTF arrive and bring a man out of their vehicle. The witness said: “The JTF didn’t know we were watching... Some [residents] were about 50 meters away. I was about 200m away. They asked the man to remove his clothes. They gave him a football shirt to wear and tied his hands behind his back with a belt. They asked him to walk [then] they fired from behind and killed him. They used an AK47. One soldier fired four bullets. It was very close range, [the gun was] touching his head... When they killed him they left the corpse there. We went and reported to the police station... the police told us to go and take photographs of the corpse and to bury him.”<sup>96</sup>

## LETHAL FORCE: NATIONAL LAWS FAIL TO REFLECT INTERNATIONAL LAW

The Constitution of the Federal Republic of Nigeria (1999) recognizes the right to life (section 33) and personal liberty (section 35), freedom from torture (section 34.1.a), and the presumption of innocence (section 36.5).

Nigeria's Constitution and the Nigeria Police Force Order 237 (Rules for guidance in use of firearms by the police) provide much broader grounds for the use of lethal force than is permissible under international law and standards, permitting police officers to shoot suspects and detainees who attempt to escape or avoid arrest "provided the offence is such that the accused may be punished with death or imprisonment for seven years or more."<sup>97</sup> Escaping custody or resisting arrest is punishable with seven years' imprisonment under Nigerian legislation. As such, the Constitution and Police Force Order 237 allow police officers to shoot with impunity anyone who flees.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions urged Nigeria to amend Force Order 237 in his report in January 2006: "These rules practically provide the police carte blanche to shoot and kill at will."<sup>98</sup>

In some cases, following an attack by people suspected of being members of Boko Haram, particularly if it targeted security forces, security forces have been accused of carrying out retaliatory executions of (male) civilians living in the area and then claiming they were Boko Haram members.

On 6 June 2012, allegedly responding to a Boko Haram attack in an area some 5km away, a police officer from Danda police station, Maiduguri, began firing tear gas and live ammunition and ordered people to go inside their home and remain there. A neighbour who witnessed the incident told Amnesty International: "Alhaji Hussaini Sha'abu (65) entered his house when the police started shooting but could not see his children. His wife told him they were over the road at his brother's house. Alhaji Hussaini Sha'abu telephoned his brother to confirm the children were there but the call would not connect. Worried about his children, he decided he would go and find out. As he walked outside there were still a few police around. Without warning and without saying anything one of the policemen who was approximately 50m away aimed and shot him. They just left him there. Once the police left then we could get to him and take him to hospital... He was alive up to the following day."<sup>99</sup> The community elders made a complaint to the District Police Officer (DPO). The DPO met with them and said he is looking into the matter. They also sent a letter to the Inspector General of Police but received no response.<sup>100</sup>

On 9 March 2012, Ali Muhammad Sadiq (31), Ahmed Yunusa (24), Auwalu Mohammed (30) and two other people were shot to death when the JTF opened fire at an NNPC filling station at Rijiyar Zaki, Kano. A nearby police station had been attacked by suspected Boko Haram members and the five men who were staff and customers at the filling station sheltered in the service bay in an underground service pit to avoid the bullets. According to eyewitnesses interviewed by Amnesty International, the JTF entered the service bay and shot directly at the men. Seven people were sheltering in the service bay, five were killed. Ali Muhammad Sadiq was shot five times, including once in the head.<sup>101</sup>

## KAWAR MAILA, 27 DECEMBER 2011

On the early hours of 27 December 2011, nine people – Wakil Dala, Bukar Dla, Ali Dala, Adam Tijjani, Mamman Adamu Mustapha, Hassan Musa Bukar, Mamman M Mustapha, Alhaji Ali and Babangida Adamu – were allegedly shot by members of the JTF. According to residents of the community, JTF soldiers in several vehicles had arrived at Kawar Maila Ward, Maiduguri, and surrounded homes. Parents were asked to produce their male children. They were told their sons were being taken away for interrogation. Two days later a relative of one of the arrested boys heard on the radio that the JTF had killed 11 Yusufiyya [followers of Mohammed Yusuf] members in Maiduguri. One of the relatives went to the mortuaries to check. He found the bodies of all nine on the floor of the University of Maiduguri Teaching Hospital mortuary. In a press conference at the National Union of Journalists House in Maiduguri, a relative of one of the boys killed described how, when he and the other relatives arrived at the mortuary to claim the bodies, soldiers told them that they would not be allowed to take away the corpses unless they signed a statement that all the executed boys were members of Boko Haram.<sup>102</sup> The relatives refused. The Village Head was arrested and detained for 24 hours for refusing to sign a similar statement that the nine were killed in a gun battle.<sup>103</sup>

JTF spokesman Lieutenant Colonel Mohammed Hassan told journalists in Maiduguri that they had 'incontrovertible evidence' that the suspects were members of Boko Haram and claimed that they were killed during a gun battle with JTF operatives in the early hours of Saturday.<sup>104</sup>

On the evening of 12 February 2012, between 7pm and 8pm, according to eyewitness accounts, the JTF mounted a road block at the entrance to Budum community, Maiduguri, set a house on fire and carried out a house search. Eight people were killed, including some trying to flee the area.<sup>105</sup> According to eyewitnesses interviewed by Amnesty International, Kana M Zakaria (16) was asked to come out of his house with his hands raised and was shot dead by a mobile police officer attached to the JTF unit. Bako Gwain Tijjani (42) was also shot dead while his hands were raised over his head. Six of the bodies were reportedly taken away by the JTF and later retrieved by the community from the hospital, while those of Baba Kalo (63) and Malam Yahaya (35) were left at the scene. According to residents interviewed by Amnesty International, the soldiers threatened the head of the community that he would be killed if he did not divulge who was a member of Boko Haram in the area. When he said that he did not know anyone, he was told to lie on his back while a soldier marched on his chest. This was repeated after he was ordered to lie on his front.<sup>106</sup>

Residents of Budum claimed the JTF carried out the raid because a JTF vehicle collided with an electricity pole next to Budum market. According to residents it was after this incident that the JTF cordoned off the area and started the house to house searchers. The JTF claimed in newspaper interviews that the operation was carried out after its vehicle came under attack from gunmen.<sup>107</sup>

## KALERI, 9 JULY 2011

On 9 July 2011 at around 8pm there was an explosion near a JTF vehicle in Kaleri Ward, Maiduguri. Most of the men in the community were in the mosque and the women were in their houses. According to residents, JTF soldiers blocked roads in the area preventing anyone from entering or exiting. The soldiers entered approximately 20 houses, searching them and bringing out residents who were made to lie on the ground. The JTF then set fire to homes, cars and motorcycles. Several men found inside the houses were shot dead. At least 18 men are believed to have been killed.<sup>108</sup>

Adam Abdullahi Suleiman (42) was a staff member at the University of Maiduguri who lived in Kaleri. A neighbour of Adam Abdullahi Suleiman interviewed by Amnesty International said he saw the JTF shoot Adam Abdullahi Suleiman. Adam Abdullahi Suleiman had two wives and 10 children. Adam Abdullahi's wives, H.I. and Z.S. were in their house that evening. One of them described to Amnesty International what happened: "soldiers came into our house with two of our children and asked for our husband; we told them that he has gone to the mosque. The soldiers told us to come out and asked us to lie down into a culvert. We were then asked to give them matches and I saw them taking fuel from our electric generator set which they used to burn down our house... We saw our husband's corpse the following morning. His identity card was in his hand... We left for our respective villages after the funeral. The university gave us an assistance of N50,000 [\$317] and children's clothes. We are yet to receive his death benefits from the university; we were given his two month salary. We have gone back to our respective families and our children have been withdrawn from the private school and are now attending public schools. We did not lodge any complaint anywhere."<sup>109</sup>

A.I. lived in Kaleri with her husband and four children. She also witnessed the execution of a neighbour on 9 July 2011: "When they [brought me outside] they made me lie there with one man. He was Dahiru Muhammad, he had three wives and 13 children. When I was brought out to lie down Dahiru Muhammad was already shot. He moved. [The soldier] said 'ah, he hasn't died' then he shot him again and he died."<sup>110</sup>

F.I. told Amnesty International she was at home with her six children aged between five and 15 when soldiers from the JTF blocked the entrance to the community and began searching houses. The soldiers also searched F.I.'s house: "He asked, 'where is your husband?' I told them he has travelled. He [the soldier] said I have hidden him inside the room and I should bring him out. One of the soldiers slapped me twice and I fell down, when I stood up we went into the room and he asked me to lift the mattress. He said 'Where is his gun?' I said 'he doesn't have a gun.' They said 'where is his bomb?' I answered 'he doesn't have a bomb.' The soldier that followed me into the room kicked me down and I fell... I had traditional beads on my wrapper [cloth used a skirt] he pulled at the beads and my wrapper came off. He lay on top of me. He put down his gun next to me, like he was going to rape me but he didn't take his trousers off. My four younger ones were under the bed in the same room. It lasted for about five minutes... At that time I couldn't talk, I couldn't control myself, I couldn't answer... They brought me to the roadside naked [without my wrapper]. A car was ablaze. The soldier asked me to go inside the fire. Another soldier said 'no, don't set fire to women and children.' They set fire to my house."

When F.I. was made to lie down outside she witnessed the summary execution of her neighbour and his children: "They were lying down next to me and were shot by my side. I was lying next to M.A., who was with her husband, Al-Ameen Abdullahi (70), and their three children, Tasi'u Al-Ameen (25); Sunusi Al-Ameen (23); and U.A. (13). Al-Ameen Abdullahi, Tasi'u Al-Ameen and Sunusi Al-Ameen were shot dead while lying face down. They spared U.A.. The woman M.A. has been taken to the village, she is insane now."<sup>111</sup>

Some of the women and children were made to lie on top of each other when they were brought out of their houses. A.S. had a nine-month-old baby, Z.S.; when the JTF brought them out of their house, they piled them up on top of each other. When they were allowed to stand up, they found that Z.S. was bleeding from the nose, mouth and anus. She died in hospital in December 2011 from what her family believe were injuries sustained during the raid.

Amnesty International interviewed five women from Kaleri Ward, one aged 17, who said they were raped by members of the JTF.<sup>112</sup> "We all went to have tests, there are no infections. But not everyone wants to voice out. The whole area was affected. They [JTF] were doing it all over." One 40-year-old woman who has five children



said her husband divorced her because of the rape. She said she was still receiving treatment for injuries she sustained in the attack almost a year previously.

Another of the women told Amnesty International "We believe that god is going to avenge for us, but government should come to our aid and provide shelter or rebuild where we were before... When the thing happened we were promised by government that they would aid us, provide shelter, we are still appealing that government should come to our aid."

In a statement to the press, the JTF said "11 people were killed at Kaleri and all of them were members of the Boko Haram sect, while two soldiers were injured." The JTF said some houses were burnt during the attack when an explosive kept by Boko Haram members in a house exploded.<sup>113</sup>

Members of a House of Representatives committee came from the National Assembly to talk to members of the community after the incident. Residents say they have not heard anything since their visit. No one has been held accountable for the killings. The women interviewed by Amnesty International had not received any assistance from the government in finding another place to live or rebuilding their homes.

## 5.2 BODIES DUMPED BY THE ROADSIDE

International human rights standards require that whenever force or firearms are used, relatives of the person injured or killed must be notified at the earliest possible moment.<sup>114</sup> This is not the practice in Maiduguri. Amnesty International interviewed several families whose relatives were reportedly killed by security forces, and whose bodies were left by the side of the road.

For example, A.A., a 32-year-old trader, was arrested by members of the JTF on 15 May 2012 at around 6:30 pm as he was about to close his shop for the day. His father told Amnesty International that he was alerted of A.A.'s arrest shortly afterwards but could not do anything because of the curfew in Maiduguri. The following morning he started to search for his son: "I went to various police stations around us but didn't see him and got no information about him. I was told that there is a police station at NEPA (the Power Holding Company of Nigeria, PHCN, formerly the National Electric Power Authority (NEPA) whose office is used as a base by the JTF), where people are being detained and I planned to go and check. I was waiting for the person that would take me to the NEPA police station when someone on a tricycle came and informed me that he saw three dead bodies dumped by the roadside and one of them resembles my son A.A.. I went to the area and saw his dead body lying by the roadside, naked with bullets all over his chest... I did not complain to anybody but I am looking for justice for my son's killing. Without a trial it is great injustice to his family and me. He is the breadwinner of my family but he has been killed for doing nothing."<sup>115</sup> Given he was last seen in their custody and there is no evidence of his safe release, Amnesty International is concerned that state security forces were responsible for A.A.'s death, particularly given the pattern in Nigeria. Amnesty International wrote to the JTF Commander, Borno state, and the Chief of Defence Staff requesting additional information on the circumstances surrounding the death of several people including A.A.; no response was received.<sup>116</sup>

In August 2012, two bodies were dumped by the roadside on Sir Kassim Ibrahim Way [see cover photograph] in Maiduguri. A local resident told Amnesty International that when he came out of his shop he saw two dead bodies lying by the side of the road and a JTF vehicle pulling away. He told Amnesty International "when I went inside there were no bodies there, when I came out there was a JTF vehicle pulling away and two dead bodies lying by the side of the road." It is unclear who killed the men.<sup>117</sup>

## INTERNATIONAL STANDARDS ON USE OF FIREARMS

Lethal force and firearms should only be used when justified under international human rights law and standards and firearms should be regarded as potentially lethal in all circumstances and at all times.

International standards require that firearms may only be used in law enforcement as a last resort – when strictly necessary to protect the officials or others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting the officials' authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives (Code of Conduct, article 3; Basic Principles article 9). The intentional lethal use of firearms is only permissible if strictly unavoidable in order to protect life (9. Basic Principles).

Before using firearms, police should always identify themselves as such and issue a clear warning of their use – with sufficient time for the warning to be observed, "unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident."<sup>118</sup>

Whenever the use of force and firearms is unavoidable, law enforcement officials must "exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved."<sup>119</sup> By misusing lethal force or using excessive force in a manner that violates the principles of necessity and proportionality, the police and other security forces can violate the prohibition against 'arbitrary deprivation' of life.<sup>120</sup> In no circumstances can the intentional killing of a person who does not present a threat be justified.

### 5.3 NO INVESTIGATION INTO DEATHS

Effective and impartial investigation is crucial in establishing the truth about human rights violations, including extrajudicial executions, and gathering evidence to hold perpetrators to account.

International standards require that any death in custody must be investigated thoroughly and impartially.<sup>121</sup> Dependants or relatives of persons killed, or their legal representatives, are also entitled to an independent process, including judicial process, and publication of a report of the investigation.<sup>122</sup> Indeed, whenever an individual dies in state custody, the responsibility of the state is to be presumed; the state must affirmatively provide evidence that it lacks responsibility to avoid that inference.<sup>123</sup>

Any person affected by the use of force or firearms, including dependants or family of persons killed, or their legal representatives, is also entitled to an independent process, including judicial process, and publication of a report of the investigation.<sup>124</sup>

Police officers in Nigeria are required to keep records of all unnatural deaths in custody. Records must include the name of the deceased, date and cause of death, and the outcome of the Coroner's inquest.<sup>125</sup> Coroner's Laws, which are in force in most Nigerian states, oblige the state authorities to investigate and determine the circumstances of all unnatural, sudden or violent deaths through an open, public inquiry, and to investigate every death in custody.<sup>126</sup> However, inquests into death in custody are rare in Nigeria.<sup>127</sup>

No one interviewed by Amnesty International in Maiduguri about deaths of their relatives or friends said they had been informed by the security forces or other government agency that an investigation would be carried out, or were offered any apology. Few were given an explanation of the circumstances of the death(s).

M.C. (21) was a trader in Bula Birin, opposite Monday Market, and was among scores of people arrested by police on 14 May 2012.<sup>128</sup> According to eyewitnesses, all of them were put into one single armoured personnel carrier. M.C.'s uncle told Amnesty International: "I'm his uncle but his father is dead and M.C. is like a son to me. Often time M.C. brings dinner, at the time of dinner we hadn't seen him. We still hadn't seen him at morning. I thought maybe they've arrested him. I went to his place of work and they said yes, he's arrested. His partner said he heard they've all been released and are coming back. I saw people greeting those that had been released. I asked of my own son, they said yesterday 160 people were put in that police vehicle, it was overcrowded. They were taken to Crack [Special Anti Robbery Squad (SARS) police station in Maiduguri, commonly known as Crack]. When they got there, they stayed 15 minutes inside the car before police took them out and by the time they took them out of that vehicle, M.C. was dead. ...I went to the mortuary and asked the person 'did Crack police bring some people? I want to see them.' When they opened the fridge I saw four [bodies] within and one was M.C.. His chest was very black and so was the front of his thighs. The mortuary staff said they can't hand over the body until the police come. That was in the morning. They didn't release the body to me until 4:30pm. I didn't get a death certificate. The police were even challenging each other 'how did he die?' Eventually they wrote [in their book] 'there is no ventilation in car.' That's what the police wrote. I have not made a complaint; even if we went to the police there is nothing they would do."<sup>129</sup>

The circumstances surrounding the deaths of M.C. and the many others who have allegedly died in custody and during police or JTF operations in Maiduguri have not been adequately investigated. Most have not been investigated at all.

#### 5.4 BARRIERS TO COMPLAINTS

People interviewed by Amnesty International who claim their rights were violated by the security forces in Maiduguri said they found it very difficult to make complaints.

To facilitate the reporting of misconduct by security forces, law enforcement officials must make independent and impartial complaint mechanisms available and known to the public.<sup>130</sup> Any use of force or firearms that results in death or serious injury, or any complaint by a relative suggesting the possibility of an extrajudicial execution having occurred, must be immediately reported in detail to a competent administrative or judicial body with relevant jurisdiction.

Most of the people interviewed by Amnesty International felt too intimidated to make a complaint about the death of their relative. One lawyer who stopped taking criminal cases for fear of reprisals told Amnesty International: "I couldn't go to a police station now. They are surrounded by sand bags, people holding rifles. They've made the place so scary; I wouldn't even be comfortable to go."<sup>131</sup>

In some cases, relatives have been threatened when they have tried to discover more about the death of a loved one: A.C. (35) worked at a business centre in Maiduguri. According to A.C.'s brother, he was arrested by members of the JTF on 3 June 2012. When his brother tried to find him the next day he was told by people who had witnessed the arrest that A.C. had been badly beaten by the JTF. A.C.'s brother told Amnesty International, "Some people said they had piled sand bags on him. They said he couldn't talk and couldn't say anything. And that the JTF were beating him... One woman said it seems they have killed your brother." A.C.'s brother went to the JTF to find his brother and was told by a member of the JTF that his brother had been killed. He was asked to write a statement before the JTF would release A.C.'s body, "I wrote [something]. He said 'No! It's not clear! You have to write it again! If you mess up here I will shoot you to death!' This is a word that I can't forget – that I go to bed with and wake up again with. So I rewrote the statement. My dad started crying. He asked for the body." When A.C.'s father and brother were directed to A.C.'s body they were shocked by what they saw, "There were [what looked like] cable marks on his body, bruises everywhere. We found a rope on his neck. It was made from torn cloth and tied around his neck. But there were no signs of strangulation. The right side of his head was bruised. There was shock on his face. I can't forget that. There was no death certificate. No cause of death. We took him. I haven't made a complaint. I'm afraid... I don't want to follow up my brother's case. I leave everything to God. But I want people to hear it. I want people to know what is happening. People should know. Every day they are killing people."<sup>132</sup>

In an interview with Amnesty International, the Commissioner of Police of Borno state told Amnesty International, "They can come here to complain. They should come here if they have a complaint. I assure them any person has access to me. We have told police guarding the gate. We have a pamphlet being printed and published with all the names of Divisional Police Officers (DPOs) and numbers including my own. We will distribute them to market places and market women."<sup>133</sup>

In Kano, civil society groups also complained to Amnesty International about access to the police and military to make complaints: "People couldn't go and complain; there are barricades all around police stations. Up to now you can't go near police. When they see you close they think you are part of Boko Haram, we have to be very careful the way we engage."

## 6. ENFORCED DISAPPEARANCES

**“I went to Giwa to see if he’s there. They didn’t allow me to enter. I don’t know if he’s alive or dead. He’s missing...He has two children. Even now his wife and children are together at home with me.”**

Family member of M.I., aged 28, who was arrested in September 2011 and has not been seen since.<sup>134</sup>

Amnesty International interviewed relatives and lawyers of eight people who were seen being arrested by security forces or in their detention and who are now missing. In the first days or weeks following arrest or remand, families were sometimes allowed to visit their relatives in detention. Later, the police or military told people that their relatives have been “transferred”. In other instances, following a person’s arrest, the police, SSS or military simply denied any knowledge of their whereabouts. Amnesty International is further concerned that some of those missing may have been extrajudicially executed.

Because there is no or limited access to military barracks, police stations and SSS detention facilities, families often do not know if their relative is still held. The effects on families of enforced disappearances are profound. Relatives are left not knowing whether their loved ones are dead or alive, a torment that in itself can constitute cruel, inhuman or degrading treatment.

### ENFORCED DISAPPEARANCE

An enforced disappearance is the arrest, detention, abduction or other form of unauthorized deprivation of liberty of a person by a state, agents acting for the state, or persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the person’s fate or whereabouts, placing him or her outside the protection of the law. Enforced disappearances are serious violations of human rights and facilitate a range of other violations, including torture and extrajudicial executions. Enforced disappearances are explicitly prohibited under the International Convention for the Protection of All Persons from Enforced Disappearance, which entered into force on 23 December 2010 and which was acceded to by Nigeria on 27 July 2009. The Convention also imposes legal obligations on states to ensure all those responsible for enforced disappearances are brought to justice; to take a range of measures to prevent enforced disappearances, including by maintaining records of all persons deprived of liberty and guaranteeing that family members, lawyers and others have access to such information, including the ability to compel it through a prompt judicial procedure; and to guarantee and fulfil the rights of victims of enforced disappearance including the family members of those who have disappeared.<sup>135</sup>

Goni Ali was arrested by members of the JTF at his home in Maiduguri with three others on 16 October 2011. They were taken to Giwa barracks, 21 Army Brigade. Two of the men arrested with him were released the following day and the third was released four days later. Goni Ali's family has not heard any information about him since. In July 2012 they told Amnesty International, "Whenever I go I ask about my brother I don't get any response from the JTF; sometimes they say they don't know him."<sup>136</sup>

Following a court hearing on 4 January 2012 into the disappearance of Goni Ali, at which the JTF failed to appear, the judge commented in his ruling:

"All parties have been served... None of them have the courtesy to even write or sent a representative to state why they do not avail in court. Military or paramilitary like all other indigent individuals are subject to the Constitution of Nigeria which is sacrosanct. Nobody can claim monopoly of force or coercion except legitimately. In a situation where people who are the custodians of the law defy constituted authorities what would then happen to poor, unprivileged persons? It is barbaric, uncalled for and against all civilized standards. We cannot sanitise a society where those custodians defied all standards of civility with contempt. I really cannot know where we are heading to. It is high time we changed our barbaric behaviour."<sup>137</sup>

A former detainee of the Special Anti Robbery Squad (SARS) police station in Abuja (commonly known as the Abattoir) told Amnesty International: "45 of us came [to Abuja] together, and returned together, except one. They picked him out of us and we didn't see him again. We are 45 minus one, we are 44."<sup>138</sup>

On 25 January 2011, 64 people were presented in the Federal High Court in Maiduguri.<sup>139</sup> 65 persons were named on the charge sheet. Abatcha Mohammad's name was listed but he was not produced in court, neither the police nor the prison service could account for his whereabouts. The 65 people were arrested at various locations in Maiduguri in November 2010 by police. Initially detained at Crack police station, Maiduguri, they were then transferred to Police Headquarters Abuja, then to Police Headquarters Borno state. At some point between his arrest and the date he was due to be arraigned in court, Abatcha Mohammad went missing.<sup>140</sup>

L.A., a tailor, was arrested by the JTF at his house in Bayan quarters, Maiduguri, on 8 June 2012. A family member told Amnesty International "I thought they took him to Giwa barracks. But he wasn't there. I went to Crack. They said we haven't seen him and suggested I go to another station. ... I've been looking for the past 10 days. I went to all the barracks. I went to Giwa three times. They kept telling me there is no one like him there... I have been going around with his ID. One policeman I know, I called on him, [to help me find out what happened]... he asked a friend who was within that team [that arrested L.A.], the policeman told me the man arrested that day, he and two others were taken very close to [the family's] area, to Lambu (irrigation) area. They were fired [shot and killed]...he told us to go to the mortuary. I went there...the mortuary attendant said they don't keep the bodies for more than 10 days and that they buried nine corpses the day before yesterday." Several people, including members of the security forces, subsequently told the family, off the record, that L.A. had been killed but without a body the family say they cannot be certain that he is dead.<sup>141</sup>

## 7. FORCED EVICTIONS AND HOUSE BURNING

**“The recent great upheaval that followed burning, looting and destruction of several houses and shops by soldiers resulted in forced or voluntary social dislocation for fear of insecurity by several thousands of people in some wards of the state capital... The people (have) totally become desolate as refugees in their own town. In a nutshell our entire life fabric is at its lowest ebb.”**

The Chairman of the Borno Elders Forum (BEF), Dr. Shettima Ali Monguno, said in a press briefing in June 2012.<sup>142</sup>

Both the security forces and Boko Haram sometimes issue warnings to residents when fighting is expected to take place and the violence has forced thousands to flee their homes. In December 2011, the National Emergency Management Agency announced there were an estimated 90,000 displaced people in Damaturu, Yobe state, alone.<sup>143</sup> Many have been forced to stay with relatives in overcrowded conditions, or split up their families, or leave the city entirely. Businesses have been destroyed, and many children forced to move have had to discontinue their schooling.

When areas are attacked by suspected Boko Haram members, security forces often carry out house to house searches, making arrests and seizing property. Many residents interviewed by Amnesty International whose homes and neighbourhoods had been raided complained of being assaulted and harassed by the security forces during these operations. People complained of being threatened at gunpoint, physically assaulted and made to lie in the street, sometimes in a state of undress, for hours at a time. Many residents also complained that money was stolen from their houses. In June 2012, Amnesty International delegates witnessed a man being forced by security forces to frog-jump at a checkpoint in Maiduguri.

During some operations, particularly raids in areas where an attack on security forces has been alleged, residents say the JTF has summarily executed men and boys.

Amnesty International interviewed people from four communities in Maiduguri who said that following an operation in their area, the JTF has set fire to houses in their neighbourhood. Dozens of families have lost their homes and their possessions.

## FORCED EVICTIONS

Amnesty International interviewed people from several communities in Maiduguri who claimed that the JTF had required them to leave their homes and communities with little or no notice, no compensation and no assistance in finding anywhere else to live. Families were left homeless and destitute and were forced to rely on relatives and friends for shelter and subsistence.

B.B was forced to leave his home in Shehuri North, Maiduguri, after JTF soldiers announced that people should leave their homes after fighting took place. He told Amnesty International "No reason was given [by the JTF]. I have two wives and 12 children. We went to my brother's house but there's not enough space there, we are just managing. My children aren't attending school. One is in college, two in secondary and five are in primary school, the primary can't attend school as the distance is too far [from where they now live]."

The JTF deny forcing people to leave their homes. Lieutenant Colonel Sagir Musa, the spokesman for the JTF in Borno state, was quoted in newspapers as saying: "The JTF did not request or force anybody or group to vacate his or their houses as alleged... We do not have the mandate to chase the people we were assigned to protect... I am sure some of the people left their houses because of the threats they received from Boko Haram."<sup>144</sup>

## HOUSE BURNING

Amnesty international interviewed people from four communities who claimed their houses were burned by the JTF following raids or arrests in their areas. The practice appeared in many cases to be a punitive measure, and is a violation of Nigeria's national laws and international human rights law and standards.

### HOUSE BURNING – A VIOLATION OF HUMAN RIGHTS

The destruction of homes and eviction of residents without adequate legal safeguards is a forced eviction and therefore a violation of the right to adequate housing under Article 11.1 of the International Covenant on Economic, Social and Cultural Rights (to which Nigeria acceded in 1993) and the rights to privacy, family and home under Article 17 of the ICCPR.<sup>145</sup> The UN Committee on Economic, Social and Cultural Rights, which monitors the implementation of the International Covenant on Economic, Social and Cultural Rights by state parties, has highlighted that forced evictions and house demolitions as a punitive measure are inconsistent with the norms of the Covenant.<sup>146</sup>

The UN Committee against Torture has expressed concern about house demolitions which may, in certain circumstances, amount to cruel, inhuman or degrading treatment or punishment, in violation of Article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The same is true in relation to Article 7 of the ICCPR and Article 5 of the African Charter.

Such destruction of homes is also a violation of Nigeria's Constitution, which protects the dignity of the person and prohibits torture or inhuman or degrading treatment (s34); recognizes the presumption of innocence until proven guilty (s36.5); and the right to property (s44).<sup>147</sup>



On 28 May 2012, in an interview with the BBC Hausa service, the then Minister of Defence was asked why homes of suspected Boko Haram members were routinely demolished by security agents in Kano and Maiduguri. He responded "By law, any place which is used for criminal activities, government has the right to shut down the place and destroy it in order to protect the lives of its people."<sup>148</sup> He did not specify which law he was referring to. Amnesty International could not find any law in Nigeria permitting the destruction of homes of criminal suspects.

In a meeting with Amnesty International, the Defence Headquarters spokesperson contradicted the statement by the former Minister of Defence, saying "There are no instructions for military that when you make an arrest you destroy someone's house." However, he stated that it may be appropriate for the military to destroy a house if "it's a factory that's producing or manufacturing [bombs] and launching attacks from there." He also suggested that "most houses get burnt because they are a bomb factory" and catch fire accidentally, for example during exchange of fire.<sup>149</sup>

### **KAWAR MAILA, 25 APRIL 2012**

On 25 April 2012, following a killing by a suspected member of Boko Haram in Kawar Maila, residents interviewed by Amnesty International allege that JTF soldiers set four houses on fire and threatened to burn more houses if anything happened again. On 1 May 2012 another person was killed by suspected members of Boko Haram, followed by an explosion nearby. The JTF returned with containers of petrol and set several houses on fire.<sup>150</sup>

H.I.'s house was burned down that day. She was at her nearby shop selling fruit at the time but several of her children were at home. On 1 May the JTF returned and set fire to her shop. H.I. has eight children, aged between 22 and five and had lived in her home for 30 years. The family now rent two rooms in a different area. They are over an hour away from where they used to live and the children no longer attend school. H.I. does not know why her house was burnt down, "No one came and explained anything. You dare not even ask them why and no one took the trouble to explain why they are burning the houses." The residents did not receive any compensation. "What else will I do? I have just left everything to god."<sup>151</sup>

G.I. (46) is a civil servant with 10 children and separated from her husband. She had lived in Kawar Maila for 12 years. She told Amnesty International she was at work when the JTF came to her community. When she got home the soldiers were at the other side of the ward so she was able to remove her belongings and put them outside her house, but she was unable to get a vehicle to collect them. When the soldiers started to get close the residents were forced to flee. She returned the following day but found that some of her property was missing and the rest had been smashed to pieces. She lost everything. The tyres of her car had been shot and the windows broken. G.I. is still looking for an alternative place to stay. Initially she was staying with relatives, but for the past two weeks she and her children were sleeping at her workplace. G.I. wants to go home but the area remains closed with heavy security force presence. "The place is very scary now, nobody goes there."<sup>152</sup>

A human rights defender told Amnesty International: "I visited the area a day after the incident. Along the main road and off the main road I saw many houses burnt and some few still burning, some household members were migrating out en masse with their properties and children loaded on pickup vans and small tricycle open trucks... I [collected info on] 33 household heads whose houses were burnt down."<sup>153</sup>

## LAWAN BUKAR, 22 MAY 2012

One person was reportedly burned to death and 13 shops and five houses burned down by members of the JTF after an explosion at Lawan Bukar junction, Maiduguri, on 22 May 2012 when a convoy of JTF vehicles was passing.

According to newspaper reports, after the explosion the soldiers at the back of the convoy opened fire, dismounted from their vehicles, smashed the windows of some cars that were packed by the roadsides and set shops and houses on the road on fire. Ibrahim Bukar Tela, a shop owner, locked himself in his shop to try to protect himself. According to eyewitnesses, the JTF poured petrol around the shop and set it on fire, killing Ibrahim Bukar Tela.

The eye witness testimony reported in newspapers contradicts the JTF's account of the incident. A press statement released by the spokesman of the JTF Lieutenant Colonel Sagir Musa, which confirmed the blast, said that an improvised explosive device (IED) exploded when a convoy of JTF vehicles was passing on the main road. He said the soldiers then made some sporadic shootings in the air and that it was the explosive device that ignited the houses.<sup>154</sup>

## BUDUM, 12 JUNE 2012

On 12 June 2012, residents of the Limani Tamsuwa area of Budum, Maiduguri, interviewed by Amnesty International said they heard gunshots in Shehu North, a nearby community. The next day the JTF came and using petrol and lighters set fire to three tricycles, the community's borehole and at least four shops.<sup>155</sup>

Several JTF raids have taken place in Budum, resulting in deaths, injuries and arrests of residents, and the burning down of buildings. Community elders say there are only a handful of people still living in the community.<sup>156</sup>

## ZANNARI, 14 JULY 2012.

On the 14 July 2012 a girl in her late twenties was shot by a suspected member of Boko Haram in Zannari, Maiduguri. According to residents interviewed by Amnesty International, shortly afterwards members of the JTF came to the area, brought out resident from their houses, assaulted some of them, and set fire to several houses. Several people say they were beaten by the JTF, including six women and one boy of ten.

U.M. (65), a retired civil servant, told Amnesty International, "I was sitting inside my house around 10:00 or 11:00 am. I heard the sound of three gun shots and then I saw people running around saying that a girl has been killed. After some 40 minutes to an hour later two soldiers came into my house and shouted at me to come out and one of them dragged my son, who is a staff of the University of Maiduguri, and started beating him even though none of us resisted their action. Another soldier came in and went inside the house and called all the women to come out. The soldier started beating my daughter-in-law while another soldier was beating my son. As we came out of the house a soldier kicked me twice on my shoulder and chest and I fell down and he hit me on the head with his boot and I started bleeding he continued to beat me until when I collapsed. One of the soldiers asked me to stand; I said I cannot stand he then asked my wife and daughter to hold me. They were asking us to bring the person that shot the girl. The soldiers then started opening houses that were deserted and setting them on fire and about 14 houses were burnt down. S.I. (10) was also beaten. The soldiers called him Junior Boko Haram."<sup>157</sup>

H.J., a shop owner in Zannari told Amnesty International, "the JTF members came to my shop around 11:30am while I was with some customers and directed me to close the shop and come out. As I came out I was asked whether I know the gun man that killed the girl and I said no. The soldiers then started beating me saying that I know him because my shop was facing the street. I was seriously beaten with sticks and I was hit with cutlass. I was asked to go into a culvert full of dirty water and I was beaten by all of them. I was held from 11:30am till 6:30 pm. I was bleeding. I had injury all over my back and I have injury in my eye. I was rescued by some elders in my community who pleaded on my behalf and I was allowed to go but the soldiers have warned me that I should never open my shop again and if I do they would arrest me and I would never be released. I am the one paying for my medication and I don't know how I would take care of my family since I have been directed not to open my shop. I have two wives and four children."<sup>158</sup>

## 8. INCOMMUNICADO, ARBITRARY AND UNLAWFUL DETENTION

Since 2009, hundreds of people accused of having links to Boko Haram have been detained by the JTF, military, police and SSS.<sup>159</sup> Over 200 people are believed to be detained at Giwa Military barracks, 21 Armoured Brigade, in Maiduguri; over 100 in the Special Anti-Robbery Squad (SARS) police station (commonly known as the 'abattoir') in Abuja; and dozens at the SSS headquarters in Abuja. Others are detained in smaller detention facilities around the country. According to Amnesty International's research, many have been denied access to the outside world, including lawyers, families and courts, and are held outside the protection of the law.<sup>160</sup> Detainees suspected or accused of being members of Boko Haram are usually not informed of why they have been arrested; their families are not told where they are being held; and they are generally denied access to a lawyer. According to numerous accounts from different sources, including legal practitioners, human rights defenders, and scores of relatives of detained people, few - if any - of the people detained by the JTF in Maiduguri have been brought before a court or had the opportunity to challenge the lawfulness of their detention. Court orders for the production of detainees have been ignored by the military and the police. These serious violations of human rights have left many people languishing in police, military and SSS detention for months - some for more than a year - without being taken to court or formally charged with an offence. Lawyers and family members are generally prevented from visiting detainees.

Of those detainees accused of being members of Boko Haram who have been charged with a criminal offence and brought to court since 2009, very few have had their cases heard. Most are remanded in prison where they remain awaiting trial.

Large numbers of prisoners awaiting trial have been transferred without any information being given to family members or lawyers about where they were moved to; others have simply disappeared.<sup>161</sup>

Amnesty International has received consistent reports of treatment of detainees that may amount to torture and other cruel, inhuman and degrading treatment in police and military detention.

### 8.1 OUTSIDE THE PROTECTION OF THE LAW

The arrest and detention of people by the JTF, police and SSS in Maiduguri, Kano and Abuja is often conducted outside the provisions of both Nigerian law and international human rights law and standards.

## HUMAN RIGHTS DURING STATES OF EMERGENCY

Under treaties such as the ICCPR, states may derogate from (limit) some human rights during officially proclaimed states of emergency that 'threaten the life of the nation.' However, these derogations must adhere to the principle of proportionality, i.e. may be taken only "to the extent strictly required by the exigencies of the situation" as relates among other things to the duration, geographical coverage and material scope of the state of emergency and justification of each specific measure of derogation resorted to because of the emergency. Derogating measures must not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. No derogation is permitted from certain of states' obligations, including to ensure the right to life and the prohibition of arbitrary deprivation of life, and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. No state of emergency can ever justify the taking of hostages, the imposition of collective punishments, arbitrary deprivations of liberty (including abductions or unacknowledged detention), or deviations from fundamental principles of fair trial, including the presumption of innocence. No derogation may validly authorise the deportation or forcible transfer of population without grounds permitted under international law, in the form of forced displacement by expulsion or other coercive means from the area in which the persons concerned are lawfully present. Even in states of emergency, victims of violations of human rights must have access to an effective remedy. The right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention (i.e. habeas corpus), must not be diminished by a state party's decision to derogate from the Covenant. Derogations must also not be inconsistent with other human rights obligations.<sup>165</sup>

The African Charter on Human and Peoples' Rights does not allow for derogation from any of its provisions, including fair trial guarantees, under any circumstances. The African Commission on Human and Peoples' Rights has held that in an emergency situation, the government has a continuing responsibility to secure the safety and liberty of its citizens.<sup>166</sup>

### 8.2 DENIED RIGHTS UNDER ARREST

Several people who had been arrested and later released by the JTF and police in Maiduguri and Kano told Amnesty International that they were not informed at the time of their arrest of the reason for their arrest and were not informed of any charges against them. Some spent months in detention without ever being informed of the charges against them.

M.M. (22) was arrested by the JTF at his home on 17 January 2012 with his nine brothers, one of whom he says was just 16 and another mentally ill. After spending one night at a JTF unit based at a hospital, they were all transferred to Giwa barracks. Five days later, M.M. was interviewed by two officers. He described his interrogation to Amnesty International: "they call the place court. When you go in there, one is introduced as their lawyer. They asked me my name, how I earn a living, where I live, the Local Government Area (LGA). They asked me to say how many friends I have and then asked me to name 10 of them. Then they asked me to identify members of Boko Haram from the 10 names I had given." He was never told what he was suspected of. M.M. and six brothers were eventually released in June 2012; two of his brothers remain detained.

In other cases, detainees are told there is an accusation against them but they are not allowed to see the details.

M.A., a groundnut oil seller in Monday Market, Maiduguri, was arrested at his shop on 2 August 2011 by the SSS before being handed over to the JTF and detained at Giwa barracks.



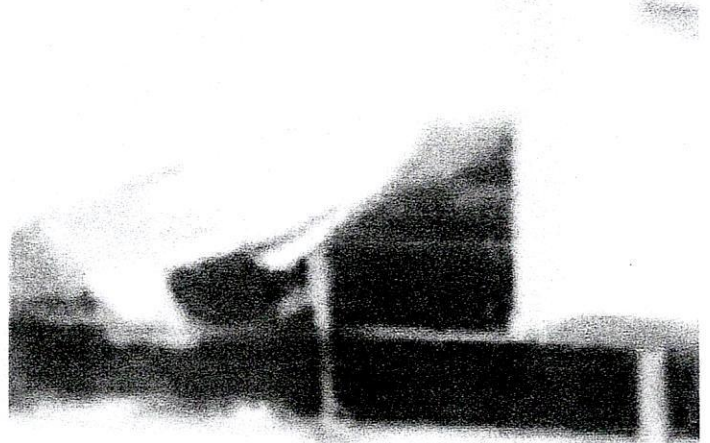
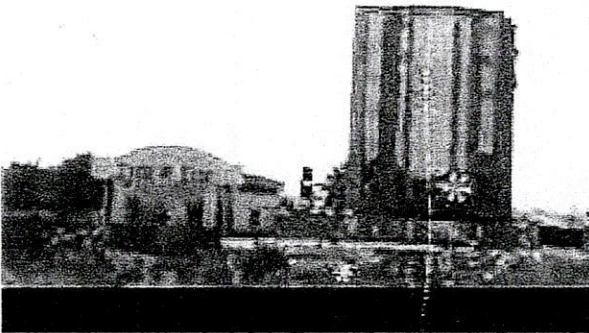
*Top:* Bodies on the road in Maiduguri, July 2009. On 26 July 2009 members of Boko Haram attacked police and government targets in several states, police and military responses resulted in serious human rights violations. By the end of that week, more than 800 people had been killed, including police officers, members of Boko Haram who had been active

in the fighting, other apparently unarmed people who may have been unlawfully killed by the police, and bystanders caught in the crossfire.

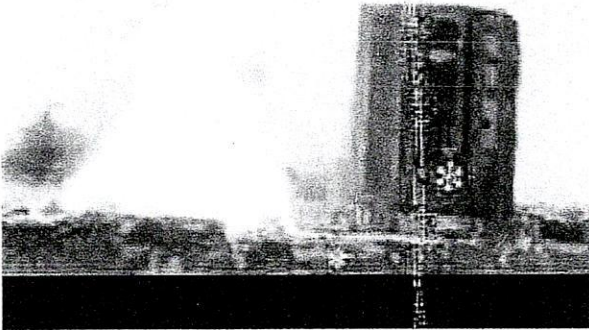
*Below:* Nigerian troops patrol in Maiduguri, Nigeria, 1 August 2009.

On 26 April 2012, Boko Haram bombed the offices of the newspaper *Thisday* in Abuja and Kaduna. At least seven people died.

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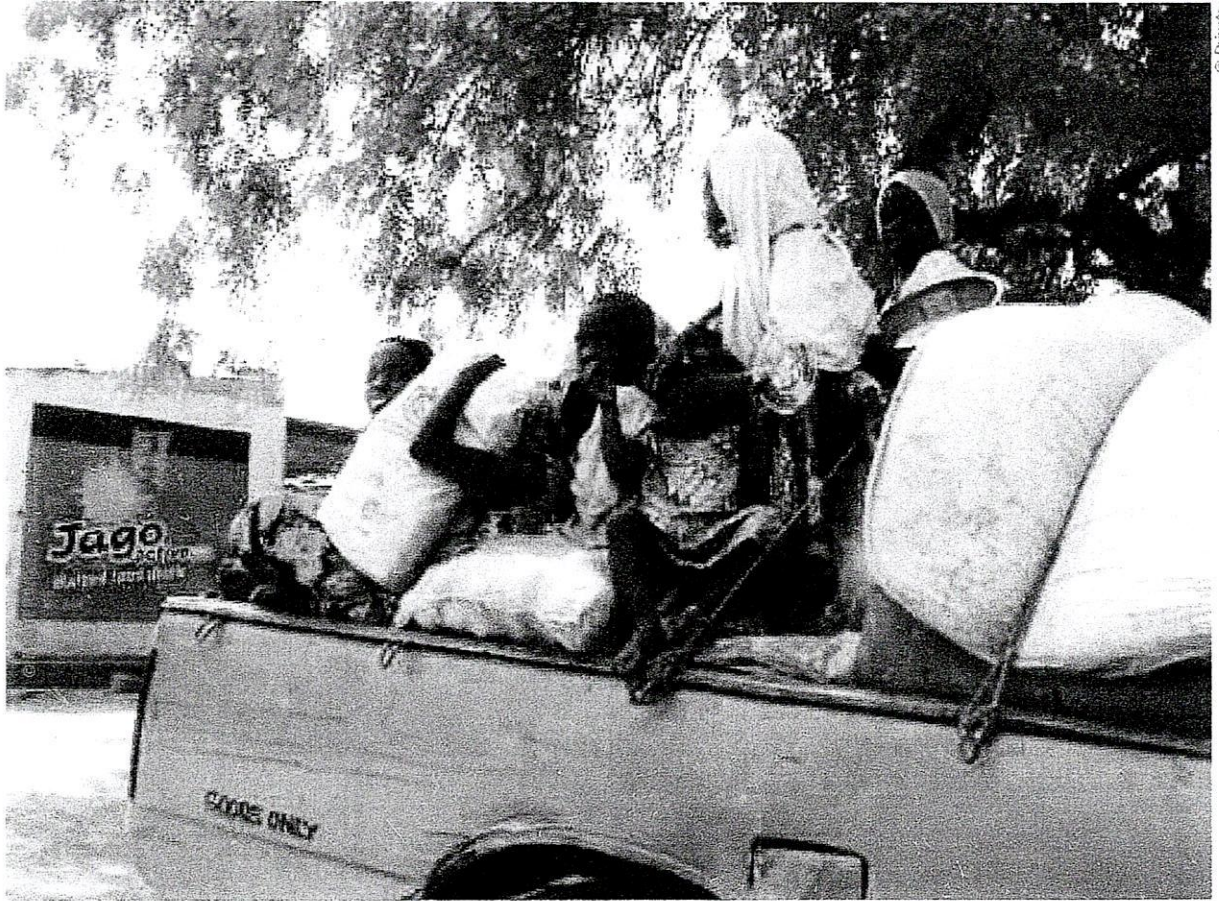


Stills from a YouTube video.

*Top:* Thisday offices in Abuja before the attack on 26 April 2012.

*Above:* Thisday offices during the attack.

*Right:* Thisday offices after the attack.



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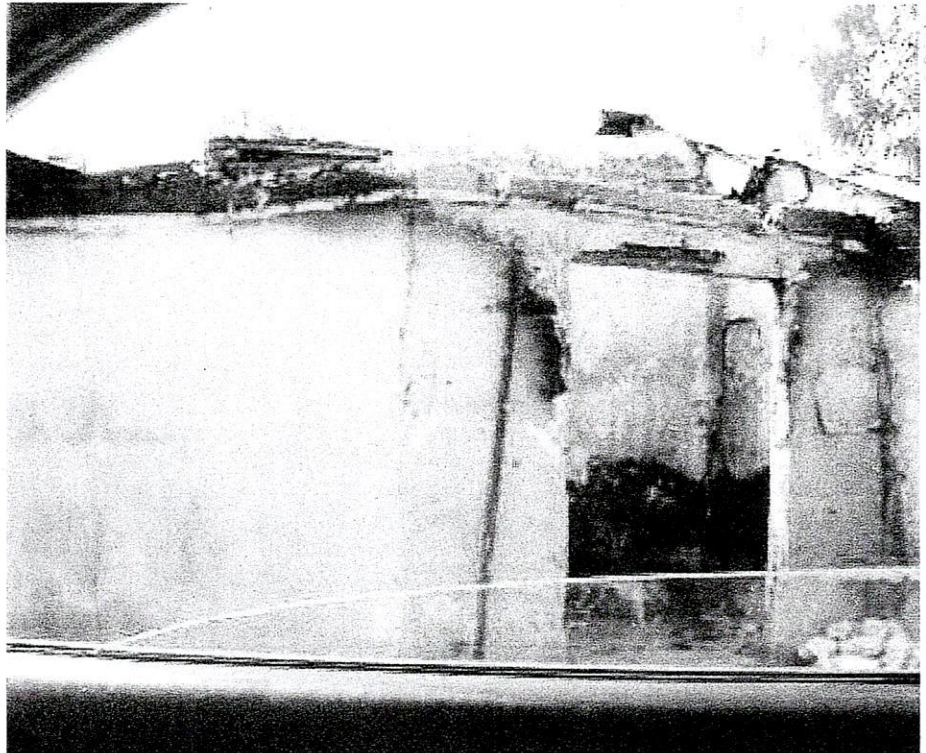
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Right: : ^VU^X[V^ PK] C] YM] Z] NZ^ [S^Z  
 O^V X^Z^X^M^ X [S^ V^R^A^ Y] UL [ Y^V R [^ ] R^Y  
 [S^ JAF ] W^M^UL OT^X[ U CX W^K^Y] VSI Q^W^Z  
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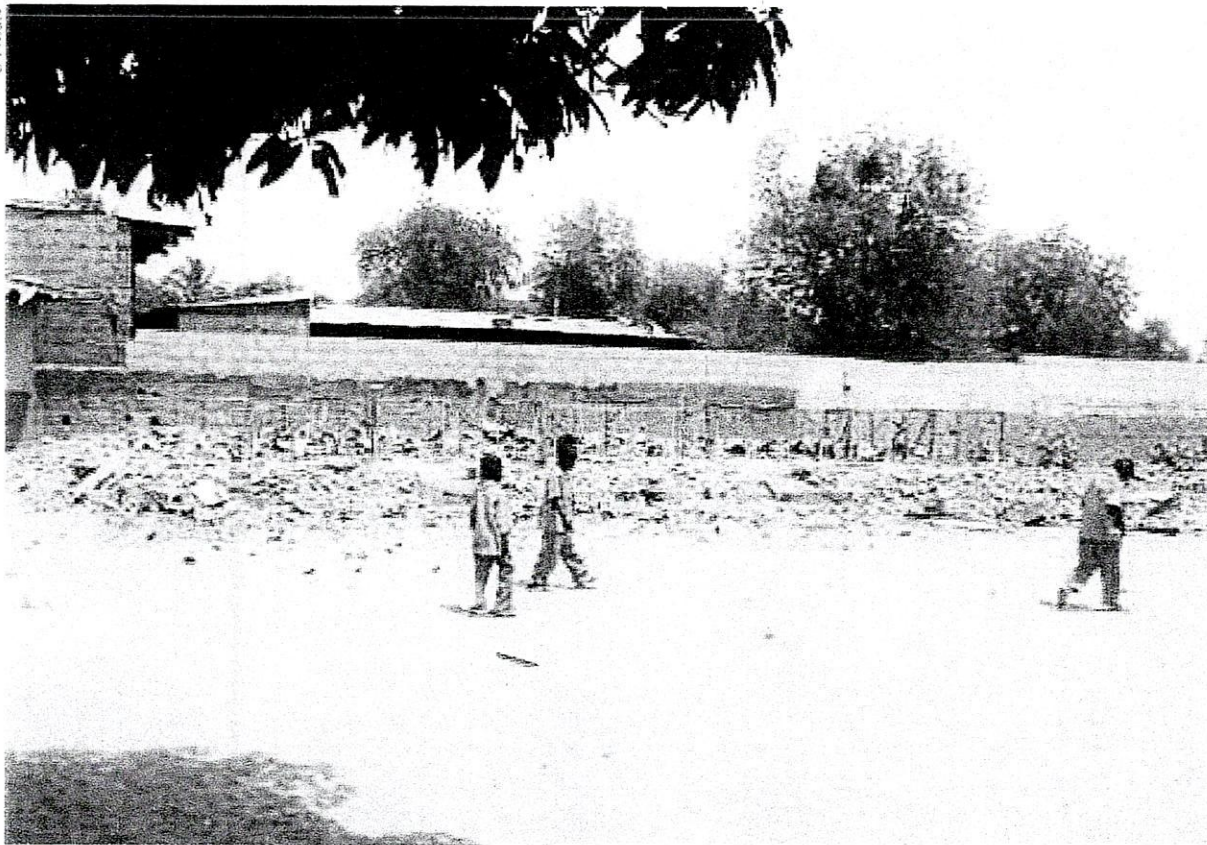




Above and above right: <S NMJ XU S TWVW  
] WMMUL OTX[ CL [S^ JI ZQ[ A] W F] R^ (JAF) ] [ L] C] X BTI ] YTXRZ X, M] ZUTM^Z \ X 22 M] L 2012. AR^YIO] SZQ BTI ] YA^Y VR ^U SZVWP Z SZWBN (J O K) R YNX [^RZ X, JAF Q^QO^WMM ^UL W] Z \ X FZ^, I ZZXVMSZQ.

Right: A[ V] V] 14 S TWWC^Y OTX^U U CX ZK S] XX] YZ M] ZUTM^Z \ X 14 JTV 2012, Y^M ^UL CL Q^QO^WM PIS^ JAF. AS^ ] Y] C] W ] [ ] R ^U ] R^Y] N^VC] W^S [ CL ] W^W^R^U Q^QO^Y PBI \ H] Y] Q.

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Top: ^Q] ZWM PJ VRS\ VOTZLXMKZ  
M] ZUTM'Z M] VRS 2012. D\ ) ^XWA PVRS\ V  
OTZLXMKZS] K' O^X ] [ ] R ^U ] XU OT^X^U ZK  
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[ ] R XIZK^ [S^Z^UTR] [Z X. B\ \ H] Y] Q S] W  
RYZQ^U YVWA XWZL R YQ] XL \ P[S^ ] [ ] R W

Left: <[ZVPX Q ] 1\ TATO^ KZ^M , ANZ/2012.  
B\ \ H] Y] Q + ] XU N^M^ RY ZQZM[ O^ B\ \  
H] Y] Q + \ F^X ZW^ C] WZM^ XU [SY] [M]  
ZLZKZU] WYMK TMM] XU ZWZT[Z XW[S] [ [S^L  
ZK^XU [ ] ] W[. < \ Q^ ] Y^ Q] U^ NTOZL KZ  
KZ^M CSZRS ZM[S^X M VP^U \ X 1\ TATO^ \ YZK ]  
V] [^Q^X] Y] U\ K^Y[S^ [^VNS\ X^ \ YW^X] CL  
^Q] Z[ ] 7 TX] W[.



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Above: A car is surrounded by soldiers in camouflage uniforms in a public area. A crowd of people and a motorcycle are visible in the background.

Right: A soldier in camouflage uniform is seen in the foreground, looking towards a group of people. A dog is visible in the middle ground, and a person is standing near a vehicle in the background.



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He has been there ever since, without charge and without being arraigned in court. His brother and lawyer were told by the SSS a few weeks after his arrest that M.A. was suspected of 'sponsorship of the Boko Haram sect' and that the basis for his detention was a petition against him. However, neither M.A. nor his lawyer were permitted to see the petition or given any further information about the allegations.

### 8.3 DENIED ACCESS TO LAWYERS, FAMILY MEMBERS AND MEDICAL CARE

#### LAWYERS

Anyone arrested or detained on suspicion of involvement in a criminal offence should have immediate, confidential access to a lawyer, and in any event not later than 48 hours after arrest.<sup>167</sup>

However, none of the people interviewed by Amnesty International whose relatives had been arrested and detained by the JTF or police, or who had themselves been arrested and detained, were offered access to a lawyer when they were arrested or while they were detained. Even when people managed to locate their relative in detention and raise the money to pay for a lawyer, the lawyer was often denied access to their client.<sup>168</sup>

One Maiduguri-based lawyer told Amnesty International, "you used to be able to visit, but now they stopped anybody coming, they say don't visit, don't bring food. There's no access for lawyers anymore. You can't even enquire about people."<sup>169</sup>

#### FAMILY MEMBERS

Anyone who is arrested, detained or imprisoned has the right to inform, or have the authorities notify, their family or friends. The information must include the fact of their arrest or detention and the place where they are being kept in custody. If the person is transferred to another place of custody, their family or friends must again be informed.<sup>170</sup> Although international standards allow for a delay in notification of family members "for a reasonable period where exceptional needs of the investigation so require" this is never to be more than a few days.<sup>171</sup> Detainees have the right throughout their period of detention to communicate with and to receive visits from family members.<sup>172</sup>

Amnesty International interviewed dozens of relatives who had witnessed the arrest of their relative by the police, JTF and SSS but who were not given any information about where they were being taken or why.<sup>173</sup> Detainees interviewed by Amnesty International after their release described being denied any contact with the outside world, making it impossible to inform people that they have been arrested. Many of the family members interviewed by Amnesty International spent days and sometimes weeks searching for their relative.<sup>174</sup>

Some of the relatives interviewed by Amnesty International who had located their detained family members were allowed to see them and bring them food and medicine; in other cases, they were refused and could only leave money with the police or soldiers on duty in the hope it will reach their relatives. Sometimes they were not even permitted to do that. Many relatives told Amnesty International that after finding their relative and being permitted to see or speak with them briefly, they were subsequently refused access.<sup>175</sup>

L.B. (67) told Amnesty International his son was arrested in April 2012: "When they seized my son, we didn't know where they took him. We went in search of him. We went from station to station and to the barracks, until some people who had been arrested and released said they saw him at Crack [SARS police station]. When we found out where he was kept, we started taking food there. They didn't let me see him until two months after. I was only allowed to see him once. After that I kept taking food. Recently they let me see him for the second time; that was four days ago... we couldn't talk for long, I greeted him and asked if he is well. Then the policeman said 'this your son is Boko Haram' I said 'he's not Boko Haram.' The policemen said 'Don't say your son isn't Boko Haram, are you one too?' They threatened to arrest me and chased me out of the station."<sup>176</sup>

In several cases reported to Amnesty International, detainees arrested by the JTF, police or SSS have been repeatedly transferred between different places of detention. The security forces usually do not inform relatives where the detainees have been transferred to. Even if family members were initially aware of their relative's arrest, once he or she is transferred they are usually not informed of the location.<sup>177</sup>

T.M. was arrested in July 2011 in Maiduguri. He was transferred to Lagos and then to SARS in Abuja. It took his family nine months to find him. They were finally able to locate him because a fellow detainee at SARS was released and called T.M.'s wife to alert her to her husband's whereabouts. When she arrived at the police station in Abuja where T.M. was detained, she was refused permission to see him.<sup>178</sup>

Amnesty International is aware of at least two cases of detainees who said that they were arrested with their wives, and transferred to a police station on the other side of the country before being separated from their wives. S.G. was arrested in Sokoto state in north west Nigeria on 19 December 2011 with his wife Z.M.. They were both transferred by plane to Akwa Ibom state in the south east of Nigeria. S.G. was then transferred to SARS in Abuja but his wife was not. The last time he saw her she was in police custody in Akwa Ibom and, according to S.G., she gave birth at the police station. As of May 2012 her whereabouts were still unknown.<sup>179</sup>

The Inspector General of Police confirmed to Amnesty International that "In most cases, we don't allow them [detainees] to be contacted (by family members)."<sup>180</sup>

#### MEDICAL CARE

Several people interviewed by Amnesty International who had been detained by the police or JTF in Maiduguri said that they were denied access to medical care as well as vital medication while they were in detention.<sup>181</sup>

Prisoners are entitled to the provision of adequate medical care while they are in detention. A failure to ensure such care, including transferring the individual to a hospital when necessary, violates the right to health and the right to humane treatment of prisoners, and can in some circumstances amount to cruel, inhuman or degrading treatment.<sup>182</sup>

In January 2012, M.M. repeatedly complained to soldiers at Giwa barracks that he was diabetic but they refused to take him to hospital until he became very ill. When he was eventually taken to the clinic on site at Giwa, there were no drugs to treat him. He was

denied permission to call his family to ask them to bring him the drugs he had at home and was forced to endure 18 days without his medication. M.M. was taken twice during the 18 days to the barrack hospital but on each occasion the necessary drugs were not available.<sup>183</sup>

#### 8.4 DUE PROCESS FLOUTED

Amnesty International's research found that the detention of many of those suspected of crimes related to Boko Haram has not been subject to due process according to the law.

The vast majority of people arrested by the JTF do not appear to have had the opportunity to be heard by a judicial authority, and those that have tried to challenge the legality of their detention by bringing cases before the courts have had court orders ignored.<sup>184</sup>

Ibrahim Umar was arrested on 13 January 2012 at the Borno state Government Lodge, Asokoro, Abuja, along with Kabiru Sokoto who was alleged to be a member of Boko Haram. Ibrahim Umar spent seven days in police detention before being arraigned before the Chief Magistrate Court, Wuse Zone 2, Abuja on 20 January, charged with belonging to an unlawful society and culpable homicide not punishable with death. The case was adjourned to 28 March and he was remanded in Kuje prison. On 26 January, on the application of the prosecution, all charges against him were dropped. However, when he was released on 26 January he was immediately rearrested by the police and taken to the SARS, Abuja. On 2 August, a court in Kuje, Abuja, declared the continued detention of Ibrahim Umar "unconstitutional" and "an infringement of his fundamental rights" and granted a Court Order for his immediate release. The Court Order was served on the police on 7 August 2012 but he is still in detention.<sup>185</sup>

One lawyer told Amnesty International: "I only got one person released from the barracks [JTF detention]. They don't bring people to court. In all the cases they just say they are Boko Haram members. They don't specify the crime. [As for people detained by] the police – you can go to court and the police release them. The police are cooperating more than the military and the SSS. The police know the position of the court; if you get court orders the police release them. But even then you have to initiate a Form 48 (contempt proceedings)."<sup>186</sup>

Most of the family members and lawyers interviewed by Amnesty International who tried to seek access to their client or relative or enquire when they will be arraigned in court, were told – if the detaining authorities even confirmed that the person was in their detention – that 'we are still investigating.' In an interview with Amnesty International, the Defence Headquarters spokesperson said that "investigations can take one month or two months, or more, depending on the information [that they get]."<sup>187</sup>

A representative of the Office of the National Security Adviser (ONSA) told Amnesty International: "They [JTF] don't detain them when it is not necessary. For those people against whom there is evidence that they are involved, they are detained for interrogation and that takes a long time."<sup>188</sup>

Sa'Adatu Umar, a nursing mother, was arrested on 20 March 2011 in Bauchi with her three children aged five, three and 10 months. She was accused of aiding her husband's evade arrest. After two days they were transferred to Abuja where they were detained at Area 10



police station for almost three months; Sa'Adatu Umar was never charged or arraigned before a court of law. She was eventually released on 15 June 2011 after legal NGO Legal Defence and Assistance Project (LEDAP) filed a petition at the ECOWAS Community Court of Justice in Abuja, seeking an order declaring her detention illegal and ordering her release. She said that she and her three children became ill while in police custody as a result of inadequate food, water, medical care and clothing.<sup>189</sup>

### 8.5 GIWA MILITARY BARRACKS, MAIDUGURI

Giwa barracks, 21 Armoured Brigade, is a military institution used as a detention facility for people suspected of crimes related to Boko Haram. The JTF routinely detains people it arrests at Giwa barracks.

Because most detainees are not taken to court, and the JTF does not disclose the number of people it detains, it is impossible to know exactly how many have been arrested and are detained at Giwa barracks. However, eye-witness accounts of people who have been detained at Giwa barracks and people (lawyers, human rights defenders and relatives) who have been able to gain access to the barracks put the number at between 200 and 500.

Amnesty International was not granted access to visit Giwa barracks so was not able to examine the conditions of detention first hand. However, the organization received consistent descriptions from seven people who had been detained and released from the barracks, and from lawyers, human rights defenders and relatives who had visited.

According to information received by Amnesty International, as described below, the conditions of detention may amount to inhumane and degrading treatment prohibited by Nigerian and International law.

#### SUBSTANDARD CONDITIONS OF DETENTION

According to information received by Amnesty International, detainees at Giwa barracks are held in severely overcrowded conditions. Detainees described an overground cell containing approximately 160 to 200 detainees. Amnesty International received consistent reports from former detainees and others who had been inside Giwa, that there is an additional underground detention facility, which may be used for punishment. Former detainees reported that in June 2012 a second overground cell was constructed, with similar capacity to the existing over ground cell.<sup>190</sup>

One former detainee who said he had been chained in the underground cell for one week told Amnesty International: "they have a dungeon, an underground place where they also take people...In the dungeon they have short chains, they tie you to one side, you cant stretch fully, lying on the ground, knees bent, you are handcuffed to a hook in the ground, facing another person who is also handcuffed to the hook. You lie on your side, two people per hook. They leave you for five days. You can't stretch out. It's a big place, they could put as many as they want in there."<sup>191</sup>

One lawyer described seeing up to 50 detainees kept outside during the day, where temperatures can reach more than 45 °C.<sup>192</sup>

According to former detainees and those relatives who have been able to visit the barracks, detainees are handcuffed in pairs for 24 hours a day. All activities - sleeping, eating, praying, bodily functions - are done while handcuffed to another person.<sup>193</sup>

According to descriptions given to Amnesty International, the cells at Giwa do not have adequate ventilation. The overground cell containing approximately 160 people had only four small windows. The underground cell has no windows and no natural or artificial light, meaning that prisoners are kept in total darkness.<sup>194</sup>

At the time of writing there was only one toilet at Giwa barracks for all detainees to use. This was located outside the overground cell so could only be used when detainees were allowed out of their cell. When in the cells, detainees used jerry cans and polythene bags for toilet functions. Each detainee has a small plastic bottle which they can fill from a borehole when they are released from the cell to use for drinking and washing.<sup>195</sup>

Detainees were allowed out of their cell three times a day: for one hour at approximately 7am; one hour at noon when they are brought out to eat; and again in the early evening when they are also given food. Those whose relatives have been able to bring money may buy additional food.<sup>196</sup>

Inmates are fed from large trays, which each serve up to 20 people. The tray is passed around and detainees take turns to eat. Sometimes detainees might eat just one or two handfuls before the food is finished. Every detainee interviewed by Amnesty International complained there was not enough food. Amnesty International delegates noted that detainees they interviewed who said they had been released only a few days earlier looked emaciated.<sup>197</sup> No bedding is provided by the detaining authorities. Detainees sleep on mats on the floor, on flattened cardboard cartons or on their clothes.<sup>198</sup>

#### TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

If the descriptions received by Amnesty International are accurate, the treatment of some prisoners in Giwa during investigations or for punishment would amount to cruel, inhuman or degrading treatment or punishment, and in some cases would appear to constitute torture, a crime under international law.

According to released detainees there are four pillars on the veranda of the ground floor cell which are used for interrogation or punishment. Detainees are fastened to the pillar by being handcuffed either in front or behind their backs, and left for between one and seven days; they are only briefly released during meal time. One former inmate told Amnesty International: "It's an interrogation tactic. When they tie them to the pillar all they ask is 'Who do you know in Boko Haram?'"<sup>199</sup> Witnesses told Amnesty International that in at least one instance a man was kept tied to the pillar for 24 hours without food or water.<sup>200</sup>

N.D., a 23-year-old driver who was detained at Giwa barracks for five months from January 2012 said, "I was tied up on the pillar on our arrival for one week. I was released only twice in a day. I was forced to urinate and defecate there except if it is the normal time for releasing us to go out. I fell very ill and when I was finally taken away from the pillar I was too ill and couldn't even walk I was only crawling." N.D. needed medical treatment after being released from the pillar.<sup>201</sup>

Brothers U.M. and A.M. were arrested on 17 January 2012. According to eyewitnesses interviewed by Amnesty International, while detained at Giwa barracks they were handcuffed to a pillar for four and six days respectively. The handcuffs were not locked in one position, which meant that they tightened each time the detainees moved their hands. On one occasion, according to a person detained with A.M., he was taken to an office and beaten with electric cable before being reattached to the pillar.<sup>202</sup>

Amnesty International's request to the Commander of the JTF in Borno state for further information on the underground detention facility and the use of pillars at Giwa barracks produced no response.<sup>203</sup>

## 8.6 'THE ABATTOIR'

Over 100 people arrested in connection with crimes related to Boko Haram have been detained at the Special Anti-Robbery Squad (SARS) detention centre in Abuja, known as the 'abattoir'. The SARS detention centre in the Federal Capital Territory in Abuja is located in a disused abattoir on top of a hill outside the city. Detainees are held in a vast warehouse previously used for slaughtering cattle, with chains still hanging from the ceiling.<sup>204</sup>

Detainees are given little food or water and are dependent on relatives bringing food or money. People who have been detained at the 'abattoir' told Amnesty International that several detainees, some of whom have been in police detention for over a year, have fallen sick there. However, sick inmates were not taken to hospital by the police or provided with any medical care within the police station.<sup>205</sup>

Detainees told Amnesty International that several inmates were beaten by police officers while detained at the 'abattoir'.<sup>206</sup>

M.K. was arrested when soldiers came to his house looking for his brother. He told Amnesty International, "We were taken to the police station in Maiduguri. After 13 days, we were transferred to Force Headquarters in Abuja. Then from there we were taken to SARS, Abuja. It's known as the abattoir. We spent 27 days there. Nobody knew where we were. We observed so many things there... There were shots in the night. I was hearing the shot of guns but I didn't know what they are doing. When they [police] were collecting statements, some of us cannot speak English, and some of the officers cannot speak our language, so those that have difficulty, they have been beaten... Our lives were – we were not alive. We had no food, no water, and no bath. One cell held about 45 of us. After 27 days we wanted to die from hunger." M.K. was eventually released after over a month in custody.<sup>207</sup>

### CHILDREN IN 'THE ABATTOIR'

Amnesty International has received reports that at least three children under the age of 18 have been detained at the 'abattoir'.

Article 37(b) of the Convention on the Rights of the Child, which Nigeria ratified in 1991, stipulates that a child shall only be arrested or detained as a last resort and only for the shortest possible duration.<sup>208</sup> The UN Committee on the Rights of Child has emphasised the particular importance of this rule as regards pre-trial detention, stating that situations where "children languish in pretrial detention for months or even years" constitute "a grave violation" of article 27(b).<sup>209</sup>

U.O., who is believed by human rights defenders working on his case to have been 14 when he was arrested in January 2011, has spent over 16 months in police detention and has never been presented before a court. The detaining police officers claimed he was over the age of 18. He remains in detention.<sup>210</sup>

Brothers M.M. (17) and A.M. (16), along with a third brother and a friend, were arrested on 6 November 2011. They were transferred between several stations, before being taken to SARS in Abuja, where they remain.<sup>211</sup>

In response to the arrest of wives and family members of Boko Haram members, Boko Haram has also issued warnings threatening to target women, children and schools: "We may consider abducting family members of government and security agents, if this continues. We may also consider attacking schools where their children attend if mosques and Qur'anic schools attended by Muslim children in the southern part of the country are bombed again."<sup>212</sup>

## 8.7 MONITORING OF DETENTION FACILITIES

The National Human Rights Commission (NHRC) Amendment Act, which had been pending approval for six years, was finally signed into law by the President in March 2011. The Act gives the National Human Rights Commission the power to investigate human rights violations and visit police stations and other places of detention. However, under the Act, the members of the Governing Council of the NHRC are required to take an oath of office prior to commencing their duties. At the time of writing, the inauguration ceremony - where the oath of office would usually be taken - had not taken place.

Nigeria ratified the optional protocol to the Convention against Torture on 27 July 2009.<sup>213</sup> The protocol aims at the better prevention of abuse of detainees and other prisoners through a system of confidential visits to all places of detention by independent international (UN Subcommittee on Prevention) and national (national preventive mechanism) experts. On 29 2009, a National Committee on Torture was inaugurated, designated as Nigeria's national preventive mechanisms (NPM) under the Optional Protocol, "to investigate allegations of torture, extrajudicial executions and other unlawful killings."<sup>214</sup> The National Committee on Torture is mandated to visit all places of detention in Nigeria and to promptly and impartially examine any allegation of torture. The Committee is yet to be given adequate budget for carrying out their mandate.

## 9. FAILING TO PROTECT AND PREVENT

**“States ... have an obligation to ensure the human rights of their nationals and others by taking positive measures to protect them against the threat of terrorist acts and by bringing the perpetrators to justice in fair and public trials before independent and impartial civilian courts.”**

Ben Emmerson, UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, addressing the Human Rights Council, 5 July 2012.<sup>215</sup>

Nigeria is obliged under national and international law to protect the right to life and security of the person of everyone on its territory.<sup>216</sup> This does not only mean ensuring that those acting on behalf of the government do not commit violations of human rights. It also includes a positive obligation to exercise due diligence to protect the population from threats to their lives and personal safety posed by non-state actors such as Boko Haram.<sup>217</sup>

Research by Amnesty International indicates that in some cases Nigeria may not be responding to attacks by Boko Haram with the due diligence required. As noted in previous chapters, suspected members of Boko Haram have been rounded up following attacks, but without proper investigations and follow through, few have been tried or convicted. On the contrary, Amnesty International research suggests in some cases security forces may have perpetrated grave human rights violations when conducting operations in response to Boko Haram. Such action is not only illegal, it is very likely to fuel the cycle of attack and counter-attack, exposing thousands of people to the risk of serious human rights violations and abuses.

As will be described below, the Nigerian government appears to be failing to adequately investigate and punish perpetrators of violent attacks and therefore failing its obligations of due diligence when it comes to protecting the right to life and security of person of the population.

## DUE DILIGENCE

Nigeria's international human rights obligations include a positive obligation to exercise due diligence to protect the population from threats to their lives and personal safety posed by non-state actors such as Boko Haram.<sup>218</sup> To exercise due diligence in protecting the right to life and security of the public, Nigeria must ensure an adequate legal framework is in place for the prevention, detection, investigation, and criminal punishment of those who plan and perpetrate such attacks. Law enforcement officials must be provided with training, equipment, infrastructure and working conditions that are adequate to enable them carry out their duties effectively. Authorities must plan and carry out operations with reasonable care, in order to prevent violent attacks by Boko Haram or any other group about which the authorities know or should have known in advance. If attacks nevertheless take place, the authorities must conduct prompt, independent and impartial investigations and ensure those responsible are brought to justice in fair proceedings that meet international human rights standards and without the imposition of the death penalty. Victims, including the immediate family of anyone killed by an attack, must be informed about and able to participate in investigations and trial proceedings, and they and anyone else who provides information or evidence to the authorities must be provided with measures of protection against violent retaliation by Boko Haram or others.<sup>219</sup> Nigeria should also ensure that victims of an attack (including immediate family members of anyone killed as a result) are provided with prompt and adequate remedy and reparation.<sup>220</sup>

### 9.1 INADEQUATE INVESTIGATION

**"The state's duty to investigate and prosecute terrorist suspects is directly linked to its obligation to end impunity and prevent future acts of terrorism. Individuals suspected, on objectively reasonable grounds, of having engaged in the incitement, preparation, instigation or commission of terrorist acts should be duly investigated and, if appropriate, prosecuted, convicted and punished according to the ordinary rules of criminal law and procedure."**

UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.<sup>221</sup>

Amnesty International spoke to families of victims who say little or no investigation appears to have been carried out by the police or JTF into the death of their relatives.<sup>222</sup>

Human rights defenders in Maiduguri told Amnesty International that people are killed by 'unknown' attackers on an almost weekly basis in Maiduguri.<sup>223</sup> In some cases, announcements are made by the security forces that someone was arrested in connection with the attack, or that the attackers were pursued and killed. However, because few if any of the cases come to court, it is impossible for family members or the public to know if the actual perpetrators have been caught.

Several relatives of people killed by unknown gunmen, possibly Boko Haram, say the police never visited the scene of the crime, did not take any statements and they were not contacted again about any investigation or any progress with the case.<sup>224</sup> The brother of one man killed by unknown gunmen in Maiduguri told Amnesty International, "There was no investigation...I was the first person to see that corpse [after he was killed] I just covered him with some wrappers, [contacted the police] who come and allowed us to bury. That was all."<sup>225</sup>

## 9.2 'PASSING THE BUCK' ON PROSECUTION

Amnesty International's research found that few of the hundreds of people arrested and detained by the security forces in northern Nigeria have been formally charged, and most languish in police, military or SSS detention for months while 'investigations are ongoing.' If detainees are charged and arraigned in court, the processes are slow, with the result that most detainees are kept in pre-trial detention for many months and sometimes years. Only a small number have been convicted.<sup>226</sup>

According to the Ministry of Justice, the JTF must hand over a case to the state Director of Public Prosecution (DPP) for prosecution under the Criminal Procedure Code [a state law], and to the Federal DPP for prosecution of a crime under the terrorism act [a federal law]. However, in practice this is not done.<sup>227</sup>

When questioned about why detainees at Giwa barracks were not prosecuted, the Defence Headquarters spokesperson told Amnesty International: "It is not the responsibility of the military to take them to court. Our responsibility is to keep them. Since Yusuf [who died while in police custody after being transferred from the military to the police] we take care of custody. But it's the responsibility of the police to prosecute them."<sup>228</sup>

However, the Borno state Commissioner of Police told Amnesty International that the cases in the barracks are the responsibility of the JTF and were not sent to the police for prosecution. When questioned about the prolonged detention without charge of people in police stations in Borno state, he told Amnesty International that although the Constitution says detainees may be held for 48 hours maximum, this is difficult in practice. He said that when a suspect is charged with a very serious offence, it is the DPP who will press charges and arraign the person in court, and the police must therefore wait for the DPP. "When he doesn't bring the case on time there's not much we can do."<sup>229</sup>

When asked about the delay in charging and arraigning suspects in court, the Inspector General of Police (IGP) told Amnesty International: "They are making a new anti-terrorism law, that's where the problem is." He commented that the current Terrorism (Prevention) Act 2011 and other criminal and penal codes are not sufficient to charge people suspected of acts of terrorism and that until the new bill is passed the police are not able [or willing] to formally charge people. "If someone stays a year [in detention] it is because we are not charging him to court for murder, but for an act of terrorism, the current act is not sufficient... we can only prosecute someone when there is a law for it."<sup>230</sup>

Such arguments for not proceeding with prosecutions of those accused of responsibility for attacks targeting civilians do not stand up to scrutiny and raise a number of serious questions and human rights concerns:

Firstly, the retroactive application of new provisions in a revised Act would only raise further concerns under Nigeria's constitution and international human rights law. Article 36(8) of the constitution provides that "No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence" and article 15 of the ICCPR is to the same effect. The possibility of future additions to the criminal law cannot provide a valid ground for failing to proceed with the prosecution of individuals who are already in custody in relation to acts they are accused of having

already committed. Nor can it provide a valid ground for failing to release them if there is insufficient evidence to proceed with the prosecution.

Secondly, Nigeria's criminal laws and the Terrorism (Prevention) Act 2011 already criminalise most if not all of the behaviour relevant to Boko Haram (bombings and killings) and related activity (weapons and explosive storage, production or importation etc) as well as outlawing membership financing or support to a 'terrorist group.'

The failure to prosecute Boko Haram suspects has meant that justice is not being seen to be done, and confidence in the security forces to address the crimes and human rights abuses committed by Boko Haram is being eroded. A lawyer in Maiduguri told Amnesty International: "[The security forces] always take action [and] round up people. Of those people arrested, where are they now? After [they have been] arrested for a month, [the security forces] should be able to come out with something. [We've] heard that police are involved, heard that politicians are involved. Let the people know ... That is not enough. Who are their sponsors? Who are they working for? ... Every citizen also has a right to know."<sup>231</sup>

## TERRORISM (PREVENTION) ACT 2011

In June 2011 the President signed into law the Terrorism (Prevention) Act 2011. The stated aim of the Act is specifically to criminalise terrorism (although presumably, all attacks by Boko Haram or others targeting civilians would already have constituted serious crimes under existing Nigerian law). However, key provisions of the Act are incompatible with Nigeria's human rights obligations. Many of the provisions of the Act use terms and definitions that are imprecise and overbroad in scope, violating the 'legality' requirement for criminal offences, and/or unlawfully restricting a range of rights – such as freedom of thought, conscience and religion, freedom of opinion and expression, freedom of association and freedom of assembly – by failing to adhere to the requirements of demonstrable proportionality; some criminal-offence provisions reverse the legal burden of proof in a manner that violates the presumption of innocence as required by human rights law, or have similar issues related to *mens rea* (knowledge or intent) elements; some provisions relating to investigation, detention, and trial are not consistent with various provisions of human rights law; some administrative provisions lack any provision for meaningful access to effective legal remedies and procedural safeguards, consequently infringing the rights of due process in a fair hearing.<sup>232</sup> The Act stipulates that all trials under the act must take place at the Federal High Court. However, this undermines the child justice provisions of the Child Rights Act, applicable in the Federal Capital territory (FCT) since 2003, which states that children under the age of 18 may only be tried in Family Courts. The Terrorism (Prevention) Act has also been criticized for failing to clearly delineate which security agency is to take the lead in investigating crimes under the act. The Act has not been used widely to date.

In 2012 a review of the Act was announced, the new bill is expected to further empower the SSS and introduce special courts for all persons charged with terrorism related offences. At the time of writing the new bill had not been passed.

### 9.3 INADEQUATE LAW ENFORCEMENT

The police are the primary agency responsible for law enforcement in Nigeria. However, they lack the expertise and equipment to adequately police sectarian or other violence.<sup>233</sup>



The failure of the government to properly equip and train the police reduces their ability to ensure their own and other people's safety. Hundreds of police, military and SSS have been killed by Boko Haram since 2009. They have been shot and blown up in their stations, at roadblocks and in their homes. Scores of police stations across the north and north east of the country have been attacked by Boko Haram, some on numerous occasions. Many police stations in Maiduguri have received threatening letters from Boko Haram.

A human rights defender in Kano told Amnesty International: "Police face lot of problems; they are wearing army bullet proof because they don't have their own. They are afraid. They lack expertise. The pattern they are using [of roadblocks] wouldn't stop anything, you're just exposing yourself to danger, one sniper can take all of you."<sup>234</sup>

Several people complained that when an attack is taking place, the police and military do not go near the area until some time afterwards, sometimes hours later. One lawyer told Amnesty International: "The police and military were not able to offer any protection, Boko Haram don't even run away [after an attack]. They just walk away."<sup>235</sup>

#### INADEQUATE EQUIPMENT

Most police stations are badly maintained and poorly equipped.<sup>236</sup> In many stations across the country there is no electricity, no running water and no sanitation facilities. Officers do not have enough basic equipment such as bullet-proof vests or handcuffs, and many stations are without access to vehicles and fuel. They are poorly paid and there are not enough barracks to accommodate them, which increases their vulnerability to attack.<sup>237</sup>

On 30 April 2012, a Mobile Police (MOPOL) base in Lafia, Nasarawa state, was attacked by unknown gunmen and one policeman was killed. The Nasarawa state Police Public Relations Officer told journalists that the attack was possible because the back of the base is not fenced.<sup>238</sup>

A Divisional Police Officer (DPO) who spoke anonymously to Amnesty International described his situation: "We have one patrol team car in the Local Government Area (LGA) and no fuel money; we got 15,000 naira [\$95] for fuel since August last year to [May 2012]. The only vehicle is given by the state government, not federal, and there is no money for fuel. We have no communication, we rely on personal GSM lines, and we were not given walkie talkies. ... Police people are not accommodated. I have 82 people under me. Eight are housed. The remaining have no accommodation. We have 39 stations and only three are fenced. The police stations are porous. I know several DPOs that haven't been on training in over 10 years. Some have given guns to new recruits who have never trained on how to use one [since passing out]... Corruption is from the top most. I'm the DPO, all that I'm given is not enough to manage the station. I have no chance but to tell my subordinates to run the station, no one is giving money for general administration."<sup>239</sup>

In February 2012, Sergeant Sunday Badang of the anti-bomb personnel was killed by a bomb that he was attempting to defuse in Kaduna. His death was recorded on video, where he was seen approaching the bomb without protective clothing or proper bomb disposal equipment.<sup>240</sup>

The inadequate training of police officers has previously been identified as a key reason for their failure to perform their duties.<sup>241</sup>

Previous research by Amnesty International has found the Nigeria Police Force lack the necessary equipment for securing and examining crime scenes, ballistics and other forensic tests such as autopsies or medical examinations. There are only three forensics laboratories in the whole country. In Borno state, the site of almost daily attacks by Boko Haram, there is no forensics laboratory, and investigators have to send evidence to Force HQ in Abuja.<sup>242</sup>

In July 2012, the Inspector General of Police told Amnesty International: "Look at the conditions of the police service and what they go through... in terms of welfare and the service conditions under which they operate. We can meet the challenge; all we need is the best in terms of funding and equipment."<sup>243</sup>

### **INADEQUATE RESOURCES ON THE FRONT LINE**

In 2012, almost 20 per cent of Nigeria's N4.877 trillion budget<sup>244</sup> was allocated to security.<sup>245</sup> Within that, N359.7 billion was allocated to Defence; N308.5 billion to the Nigeria Police Force (not including the Ministry Police Affairs and the Police Service Commission); N123.5 billion to the Office of the National Security Adviser/Intelligence and N159.3 billion to Interior.<sup>246</sup> Under the proposed budget for 2013, spending on security is expected to increase to N1.055 trillion in 2013.<sup>247</sup>

A human rights activist in Kano told Amnesty International: "The police are not given sufficient funds for fuel for vehicles, allowances and equipment. Even in terms of personnel – you'll find a LGA with 3 million people has 200-500 police officers. The officers in charge complain about some of the inadequacies and the lack of training. The security budget doesn't trickle down."

It is not clear if the security budget is insufficient or if there are other problems, but anecdotal evidence suggests a serious review is needed of how the budget is used.

### **9.4 THE MILITARY AS LAW ENFORCEMENT**

The military are widely perceived to be better trained and better equipped and, including as part of a Joint Task Force, is increasingly taking a lead role in the law enforcement response to Boko Haram.<sup>248</sup> However, the military also faces its own capacity challenges: on several occasions, senior military figures have publicly indicated a lack of resources, modern equipment, accommodation or training.

Although the military are increasingly carrying out law enforcement functions and exercising police powers, especially the powers of arrest and detention, they are failing to bring people to justice.

Moreover, it is questionable whether military equipment and training corresponds to the requirements of law enforcement, for example taking into account the different approaches to the use of force by the police and military in the contexts in which they more typically operate i.e. that the police operate under law enforcement standards that should reflect an international human rights framework, whereas the military are generally trained for operations in situations of armed conflict, where more permissive standards for use of force typically apply under international humanitarian law.

## 9.5 SPECIAL COURTS PROPOSED

In recent months, the Senate, the Office of the National Security Adviser (ONSA), and Defence Headquarters have expressed their support for the creation of special courts to expedite prosecutions for terrorism.<sup>249</sup>

In the White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, the judiciary was identified "as one of the major obstacles in the effort to check the activities of the sect" setting suspects free "on technical grounds." The Report recommended that "the entire criminal justice system should awaken to the threat of terrorism facing the country and stop granting bail application in favour of murderers and bomb throwers." The government noted the recommendation and said it "is taking steps to review the relevant laws."<sup>250</sup>

Amnesty International is concerned that establishing special courts may limit or modify ordinary fair trial guarantees.

A fundamental principle of the right to fair trial is the right of every person charged with a criminal offence to be presumed innocent until and unless proved guilty according to law after a fair trial. The courts must not be asked to reduce fair trial protections or the burden of proof for offences that are deemed particularly serious or are connected to national security.

The lack of adequate investigation is the primary obstacle to successful prosecution and conviction. If there is not enough evidence against an individual to convict them, or to remand them in prison while the case is ongoing, the onus is on the prosecution to present better evidence – and the investigator to collect better evidence for use by the prosecutor.

In an interview with Amnesty International in Abuja in July 2012, the Federal Ministry of Justice appeared to recognise the need for better evidence for use by the prosecutor, pointing to "a disconnect between the prosecutor and the investigator... [The investigator] does his investigation in the dark so the prosecutor will send the case back to him saying they need more information."<sup>251</sup> The Federal Ministry of Justice plans to introduce a code of conduct and guidelines for all prosecutors in the federation which would include guidance of the evidence necessary for conviction of criminal offences.<sup>252</sup>

The individual's right to fair trial, with guarantees for the accused in criminal proceedings, lies at the heart of due process of law. Everyone facing a criminal trial or suit at law has the right to trial by a competent, independent and impartial tribunal established by law.<sup>253</sup>

While there are serious delays in the criminal justice system in Nigeria, and congestion in the courts, the value of creating an entirely new courts rather than strengthening of the existing system is questionable. As pointed out by the Ministry of Justice, "The overall idea should be to improve capacity within the judiciary overall. If you improve capacity across the system, they should be able to deal with every matter... What courts have done is to have special divisions: civil, criminal, family."<sup>254</sup>

The UN Human Rights Committee, addressing obligations under article 14 of the ICCPR, has noted "trial of civilians in ... special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned." Such trials

must be "limited to cases where the state party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials." In the rare circumstances where such courts might be permitted, trials must still be "in full conformity with the requirements of article 14" and "its guarantees cannot be limited or modified because of the ... special character of the court concerned."<sup>255</sup>

Amnesty International opposes as a matter of policy any trial of civilians by military or special courts. In any event, the organisation does not believe that the government has provided evidence capable of meeting the very high threshold that the Human Rights Committee has set, i.e. that it would be impossible for ordinary courts to handle the trials. To the contrary, it appears that the very purpose of establishing special courts would be to limit or modify the ordinary fair trial guarantees, which the Human Rights Committee has expressly said is forbidden regardless of the character of the Court.

## 9.6 ABSENCE OF WITNESS PROTECTION

On several occasions, people who have given information to the security forces about Boko Haram or have spoken out against the group have been attacked and killed.<sup>256</sup> In some cases, it is alleged that security forces passed on information to Boko Haram.

An important component of the government's duty to safeguard the population and protect the rights of victims is to ensure that persons who give evidence or testify are not placed at undue risk and are protected against reprisals in a manner compatible with the fair trial rights of the accused, for example through a witness protection system.

The lack of an adequate witness protection system is a powerful deterrent to potential witnesses in court. In a meeting with Amnesty International in 2011, the then Federal Director of Public Prosecutions confirmed that the reluctance of witnesses to testify for fear of retaliation was hindering prosecution of Boko Haram cases.<sup>257</sup>

A lawyer and resident of Maiduguri told Amnesty International: "They live among us. We know them. They are clients, friends, brothers. But if you are willing to assist the security forces, how sure are you? How safe are you? A few days ago when I was leaving my house I saw a man holding his gun. I was going to Mosque. But I could not call anyone because how safe am I? If I call anyone they will say 'this number called us and gave us this information.' We don't have confidence in the security men. We see them [Boko Haram], but we can't volunteer this information. We don't have anybody we trust."<sup>258</sup>

The Commissioner of Police, Borno state, told Amnesty International that they have distributed telephone numbers so that people can call the police anonymously with information.<sup>259</sup> The police also offer rewards of up to \$3000 for information.<sup>260</sup> However that has led to the belief that many people are informing on people for financial gain or for personal vendettas.<sup>261</sup>

According to the Strategy for the Implementation of Justice Sector Reforms in Nigeria, published in August 2011, the Ministry of Justice plans to "improve respect for the rights of victim of crime in the criminal justice system" by drafting relevant legislation, including a witness protection bill, and developing related regulations and guidance on victims and

witness protection.<sup>262</sup> However, until these reforms are implemented, the ability of the state to protect informants remains limited. Any reforms must also be compatible with the right of accused persons under article 14(3)(e) of the ICCPR "To examine, or have examined, the witnesses against him."

Allegations of corruption and collusion have also seriously undermined public confidence in Nigeria's efforts to protect the population from attacks by Boko Haram. In addition to the absence of an effective witness protection system in Nigeria, the common perception is that the security forces have been infiltrated by or are providing information to, Boko Haram, including on people who have given information or evidence about them.

In January 2012, in a speech to mark 2012 Armed Forces Remembrance Day, President Goodluck Jonathan himself claimed that: "Some of them [Boko Haram] are in the executive arm of government, some of them are in the parliamentary/legislative arm of government while some of them are even in the judiciary... Some are also in the armed forces, the police and other security agencies."<sup>263</sup> Such allegations raise the possibility that some in the government are providing impunity to, or perhaps even actively facilitating attacks targeting civilians. While Amnesty International does not itself have any evidence to corroborate or disprove these allegations, the organisation stresses that such allegations must be subject to an independent and fair investigation that respects and fulfils the right to truth of society as a whole, and the victims of attacks in particular.<sup>264</sup>

## 9.7 INSUFFICIENT SUPPORT, JUSTICE, AND REPARATIONS FOR VICTIMS

**"We didn't receive compensation –although the commander of the JTF visited me in hospital three days after. He came with provisions and 10,000 naira [\$64]; that was all. The church wrote on my behalf to the government, to CAN [Christian Association of Nigeria], to NEMA [National Emergency Management Agency], none has responded up to now."** Pastor, Cocin Church, Jos

Few victims of attacks by Boko Haram or the security forces have received compensation or reparation, and there is no coherent nationwide policy on reparation.

Victims of human rights abuses have a right to effective remedy and reparation. This is true whether the abuses were at the hands of an armed group, such as Boko Haram, or at the hands of the state, including in its responses to Boko Haram. Such remedy and reparation should include compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.<sup>265</sup> Mechanisms for reparations should be easily accessible, involve a simple procedure and allow for reparation to be provided for without undue delay.

In the case of armed groups, where reparation is not likely to be available from the armed group directly, states should consider establishing reparations programmes to ensure that victims receive prompt, full and effective reparations.<sup>266</sup>

States should also ensure that emergency medical and psychological assistance is available and accessible to any person having suffered mentally or physically following an attack such as those perpetrated against civilians by Boko Haram.<sup>267</sup>