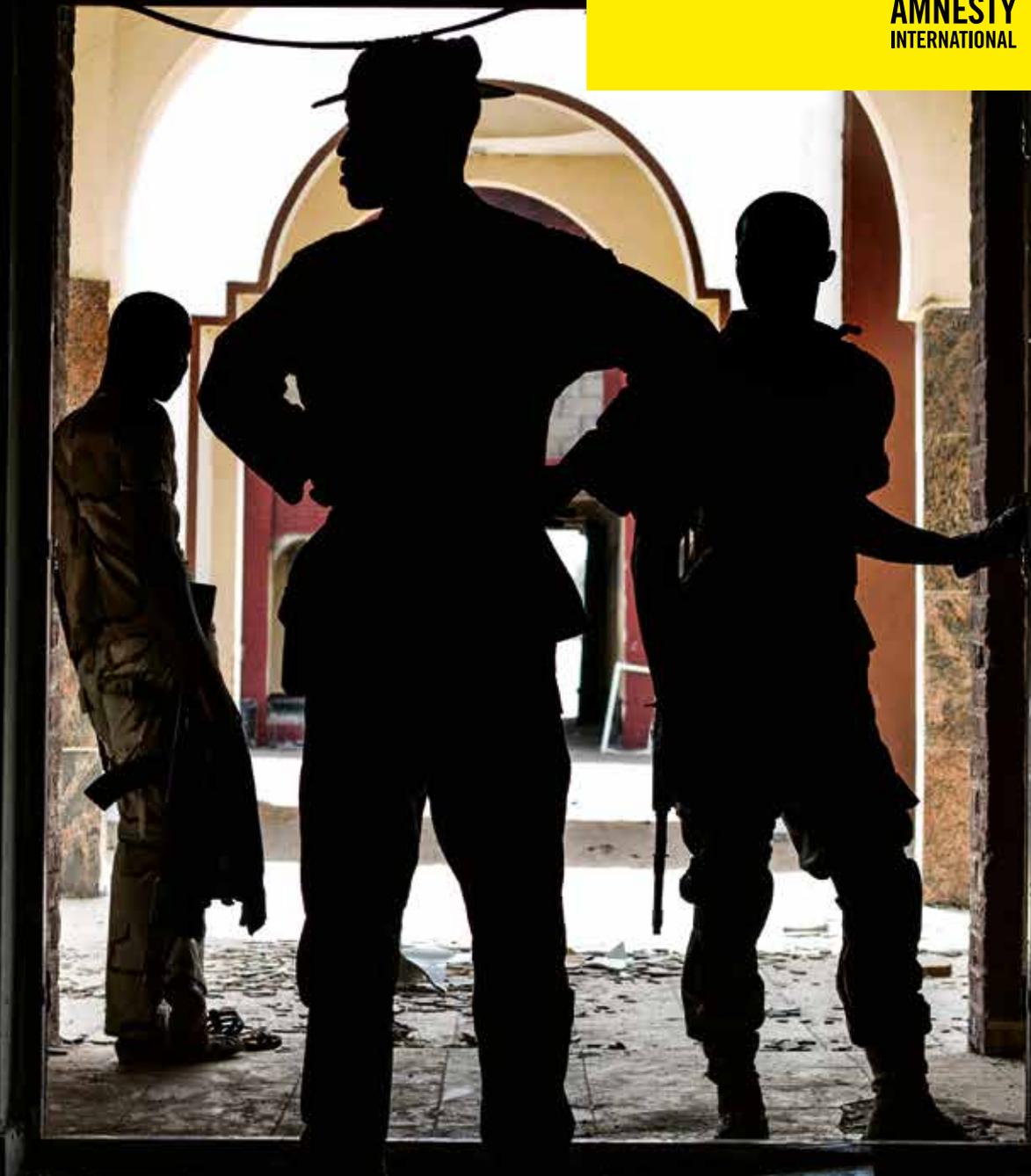


STARS ON THEIR SHOULDERS. BLOOD ON THEIR HANDS.

WAR CRIMES COMMITTED
BY THE NIGERIAN MILITARY

AMNESTY
INTERNATIONAL



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**AMNESTY
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Cover photo: Nigerian troops inspect the former emir's palace that was used by Boko Haram as their headquarters but was burnt down when they fled Bama on March 25, 2015. Nigeria's military has retaken the northeastern town of Bama from Boko Haram, but signs of mass killings carried out by Boko Haram earlier this year remain. Approximately 7,500 people have been displaced by the fighting in Bama and surrounding areas.

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EXECUTIVE SUMMARY

In the course of security operations against Boko Haram in north-east Nigeria, Nigerian military forces have extrajudicially executed more than 1,200 people; they have arbitrarily arrested at least 20,000¹ people, mostly young men and boys; and have committed countless acts of torture. Hundreds, if not thousands, of Nigerians have become victims of enforced disappearance; and at least 7,000 people have died in military detention as a result of starvation, extreme overcrowding and denial of medical assistance.

Amnesty International has concluded that these acts, committed in the context of a non-international armed conflict, constitute war crimes for which military commanders bear both individual and command responsibility, and may amount to crimes against humanity. Specifically, Amnesty International names five high-ranking military officials who were in charge of operations in north-east Nigeria from 2012 to date, as well as two Chiefs of Army Staff and two Chiefs of Defence Staff, who should be investigated for potential individual and command responsibility for these crimes. Amnesty International has handed over the names of these officers, as well as other officers not named in this report, and related evidence to the International Criminal Court.

This report is based on more than 412 interviews with victims, their relatives, eyewitnesses, human rights activists, doctors, journalists, lawyers and military sources. Amnesty International also analysed more than 90 videos and numerous photographs showing members of the security forces and their allied militia, the Civilian Joint Task Force, committing violations.

Amnesty International independently interviewed eight military sources, and examined more than 800 official documents, including military reports and other correspondence between military units based in the north-east and Defence Headquarters.

Amnesty International shared its findings with the Nigerian authorities during dozens of meetings as well as 55 written submissions, requesting information and specific action to address the violations. Government responses are reflected in relevant sections of this report.

ARMED CONFLICT IN NORTH-EAST NIGERIA

The conflict in Nigeria dates back to 2009, when the Islamist insurgent movement popularly known as Boko Haram waged a violent campaign against the Nigerian government.

The conflict has spread and intensified as a result of a complex web of socio-cultural, economic, ethno-religious and sub-regional factors. It has evolved into a non-international armed conflict between Boko Haram and Nigerian security forces in the states of Borno, Yobe, and Adamawa and has been marked by egregious violations committed by both sides.

¹ Minimum estimate based on Amnesty International research, interviews with military sources, officials at state and federal government levels, victims and relatives of victims as well as human rights defenders in north-east Nigeria between 2009 and 2015.

It has claimed at least 17,000 lives, mostly civilian, and forced more than one million people to flee their homes.

Amnesty International believes that the situation in north-east Nigeria has constituted a non-international armed conflict since at least May 2013, given the level of hostilities and the fact that Boko Haram was a well-organized force which controlled territory and had a clear command structure.

Boko Haram has used bombs to launch attacks against government or “western” targets, to intimidate opponents and to kill civilians. Its fighters have slaughtered civilians during attacks on towns and villages; assaulted and abducted teachers and students; abducted at least 2,000 young women and girls and subjected many of them to forced marriage; forcibly recruited men and boys; and burned and destroyed houses and schools.

Amnesty International has extensively documented abuses committed by Boko Haram fighters, concluding that they amount to war crimes and crimes against humanity. Amnesty International’s recent report, *‘Our job is to shoot, slaughter and kill’: Boko Haram’s reign of terror in north-east Nigeria*, contains information on Boko Haram’s organizational structure, recruitment tactics, resources, and details abuses committed by the group from 2013 to 2015.

In 2012, as attacks by Boko Haram intensified, former President Goodluck Jonathan declared a state of emergency, which was subsequently extended repeatedly, in Borno, Yobe, and Adamawa states. The state of emergency gave overly broad emergency powers to the security forces. Former President Goodluck Jonathan set up a Joint Task Force to lead the operations against Boko Haram, which included personnel from the Nigerian Army, Police Force and other security forces. The army took full control of operations against Boko Haram in August 2013.

The authorities set up a civilian militia in 2013, the Civilian Joint Task Force (JTF), to work with the security forces in Borno state by identifying and helping to arrest Boko Haram members. Civilian JTF members play a key role in mass arbitrary arrests and in screening operations in which informants point out Boko Haram suspects. Civilian JTF members have been involved, as Amnesty International has documented, in beating and killing men after their arrests.

In mid-2013, the security forces pushed Boko Haram out of the cities and towns of north-east Nigeria where they had lived among the population. Boko Haram fighters moved to remote communities and camps, such as their headquarters in Sambisa forest, Borno state. From these bases, Boko Haram launched almost daily attacks against civilian targets.

In July 2014, Boko Haram’s strategy changed as it retained control over captured towns and villages, collecting “taxes” from residents, and limiting their movement. At its greatest extent, territory under Boko Haram control extended across most parts of Borno, northern Adamawa and into eastern Yobe states. In March 2015, after a renewed counter-offensive, the military announced that they had recaptured most of this territory.

Since the start of the conflict, the budgets for defence and security have increased massively

but there is little sign of the money reaching the frontline. Operations in the north-east remain under-resourced and corruption is rife.

EXTRAJUDICIAL EXECUTIONS

Amnesty International documented 27 incidents of extrajudicial executions committed by the military in 2013 and 2014. At least 1,200 men and boys, almost certainly many more, were killed in these incidents. In 14 of these cases, Nigerian military forces, sometimes in collaboration with Civilian JTF members, executed a large number of people, at times dozens or even hundreds in one day.

The precise number of extrajudicial executions is impossible to verify due to the lack of records, cover-up efforts by the military, and the difficulty of reaching witnesses in the areas where the crimes were committed. Cases presented in this report provide documentation of extrajudicial executions in Adamawa, Borno and Yobe states.

Amnesty International's research shows that the military extrajudicially executed people after they had been captured and when they presented no danger, in violation of International Humanitarian Law (IHL). Many were shot dead inside detention facilities, while others were either shot or had their throats cut after being captured during cordon-and-search operations.

One of the most horrific mass extrajudicial executions by the military happened on 14 March 2014 in Maiduguri, Borno state. In the aftermath of a Boko Haram attack on the military detention facility at Giwa barracks during which the detainees were released, the military killed at least 640 men and boys, most of them recaptured detainees. In March 2014, Amnesty International published a detailed report documenting the killings of at least 622 people who had escaped from Giwa barracks. This report presents additional information about the extrajudicial execution of at least 18 other men on that day, including the analysis of videos showing some of the executions.

Other cases of mass extrajudicial executions documented by Amnesty International include the execution of 64 detainees in Presidential Lodge (Guardroom) detention facility in Damaturu, Yobe state on 18 April 2013 and the killings of at least 185 people during a "mop-up" operation in Baga on 17 April 2013.

In some cases, the bodies of executed detainees were returned to their families, usually dumped near the houses or on the outskirts of the villages. In other cases, the families were never officially informed of the deaths of their relatives and found out about the executions from released detainees or eyewitnesses. In many cases, they never found out at all.

DEATHS IN CUSTODY

Data collected by Amnesty International suggests that since March 2011, more than 7,000 men and boys have died in detention, their deaths often unrecorded and almost never investigated. Amnesty International gathered the data and the details of individual cases through visits to mortuaries, internal military reports, statistics recorded by local human rights activists and interviews with witnesses, victims, former detainees, hospital staff, mortuary personnel and military sources.

The highest death rates were recorded in Giwa barracks in May, June and July 2013, where

up to 180 deaths were recorded on some days. In June alone, more than 1,400 corpses were delivered from the barracks to one of the mortuaries in Maiduguri.

Obtaining information on the precise number of deaths in custody became particularly challenging after August 2012, when the military instructed the mortuaries in Maiduguri not to keep records, possibly in an effort to hide the high rate of deaths in detention. In addition, according to military sources and witnesses, not all of the bodies were taken from the barracks to mortuaries; some were buried by soldiers in mass graves.

Based on eyewitness testimonies and analysis of video and photographic evidence, as well as information contained in military reports, Amnesty International believes that the main causes of deaths in detention were starvation, thirst, severe overcrowding that led to spread of diseases, torture and lack of medical attention, and the use of fumigation chemicals in unventilated cells.

Detention facilities in Giwa barracks and in military detention centres in Damaturu were extremely overcrowded, with hundreds of detainees packed into small cells. Former detainees told Amnesty International that they had to take turns sleeping or even sitting on the floor as there was absolutely no space in the cells. They said they were given food once a day – a small amount of rice that would fit in their palms – and never received medical assistance, even for life-threatening conditions.

Former detainees, human rights defenders, hospital staff and people who witnessed and recorded the removal and disposal of bodies all said that most of the bodies looked extremely thin and did not have gunshot wounds. One witness told Amnesty International: “The corpses look skinny, hungry, emaciated, with dry lips and with several signs of disease.” Amnesty International delegates also witnessed this when they visited the mortuary and saw bodies that had been delivered by a military convoy.

A high ranking military officer told Amnesty International: “[in Giwa barracks] people were not strong enough to stand ... They keep them to die... They are deliberately starved.”

Torture and lack of medical assistance for injuries caused by torture is another major cause of death in military detention. Torture in detention is rampant (see below), and many former detainees who were tortured in detention told Amnesty International that no medical assistance was provided for even life-threatening injuries.

Saleh Jega (not his real name), a 25-year-old carpenter from Maiduguri, was arrested along with 18 others on 25 November 2012 during a cordon-and-search operation in Gwange, and taken to Giwa Barracks. He escaped after more than 15 months when Boko Haram attacked the barracks. He said that some days 50 or up to 80 people died, mainly of starvation and thirst. Out of the 19 he was arrested with, only four survived.

“We have a sense that they just want us to die. Many people died in the cells. Any time we were denied water for two days, 300 people died [in those two days]. Sometimes we drink people’s urine, but even the urine you at times could not get. Every day they died, and whenever someone died, we [the other detainees] were happy because of the extra space. And because we will be taken out, to take out the corpses, and the military will give us water

to wash our hands and when washing our hands, we drink the water.”

MASS ARBITRARY ARRESTS, UNLAWFUL DETENTION, ENFORCED DISAPPEARANCES AND TORTURE

In areas of Boko Haram activity, Nigerian troops, often with the support of Civilian JTF members, have arbitrarily arrested at least 20,000 people. On numerous occasions, particularly following Boko Haram raids, soldiers have gone to the town or village, rounded up hundreds of men and boys and taken into custody those identified as Boko Haram by paid informants. Amnesty International has also documented arrests during house-to-house raids and at checkpoints, as well as targeted arrests of suspected Boko Haram members' relatives. Most of those arrested are young men, although Amnesty International has recorded arrests and detention of boys as young as nine years old. Amnesty International has also documented the arrest and detention of 30 women and girls.

The number of arrests increased significantly following the imposition of a state of emergency in Adamawa, Borno and Yobe states. According to military sources, between January 2012 and July 2013, more than 4,500 people were arrested. A document released by the Headquarters of the Joint Task Force on 30 June 2013 states that between 16 May 2013 and 30 June 2013, 916 “Boko Haram suspects” were arrested. The actual number is likely to be much higher as there is no proper, centralized system to record arrests carried out by the security forces.

A few of those arrested were released shortly after, sometimes because their families had paid bribes; a small proportion have been prosecuted and tried; hundreds were executed and thousands died in detention; and the rest are held indefinitely in unauthorized and unacknowledged military detention, denied contact with lawyers or relatives, without formal charges, and without ever appearing in court.

The majority of detainees are held in Giwa and Mai Malari barracks in Maiduguri, and in Baga (all Borno state); in Sector Alpha (“Guantanamo”) in Damaturu and the JTF base “Rest House” in Potiskum (Yobe state); and in 23 Brigade Barracks in Yola (Adamawa state). A few suspects have also been transferred to military facilities in other states, or handed over to the Department of State Security (DSS), mostly in Abuja.

The vast majority of arrests carried out by the military appear to be entirely arbitrary, often based solely on the dubious word of an informant. Military sources repeatedly told Amnesty International that the informants are unreliable and often provide false information in order to get paid.

Instead of handing the arrested men and boys over for further investigation, the military subjects them to further “screenings” in detention. As a result of these screenings, some detainees were released, often after prolonged detention, but the process was completely random and arbitrary. While thousands have been arrested and held in detention, only a handful have faced trial: since December 2010, 24 court cases have been concluded, involving fewer than 110 people.

A Joint Investigation Team (JIT) set up by the military issued two reports showing that most cases against detainees were not ready for prosecution. The first report, issued in December

2013, recommended that the military release 270 suspects from military custody, prosecute 512, and further investigate 407. In January 2014, then President Jonathan ordered the release of 167 suspects. The second report, issued in August 2014, recommended 350 cases for prosecution and 147 for release. Military sources told Amnesty International that these recommendations were not implemented.

Amnesty International research suggests that many of the detainees have been subjected to enforced disappearances. In some cases, it is difficult to establish whether the cases qualify as “disappearances” as the families have been too afraid to search for their missing relatives, but it is undeniable that the fate and whereabouts of thousands of people arrested by the military in north-east Nigeria remain unknown to their families. Amnesty International has received a list of names and pictures of more than 1,200 people arrested in Borno state since 2011 whose whereabouts, according to several sources and some relatives of the victims, remain unknown.

Amnesty International has previously documented a widespread pattern of torture and ill-treatment in both police and military custody across Nigeria. A detailed report, *‘Welcome to hell fire’: torture and other ill-treatment in Nigeria*, published in September 2014, found that torture and other ill-treatment in the north-east of Nigeria increased as the conflict escalated. Former detainees interviewed by Amnesty International described a wide range of torture methods used by the military including: beatings; shootings; nail and teeth extractions; rape and other sexual violence; as well as conditions in detention that amount, at a minimum, to ill-treatment. Information obtained by Amnesty International since the publication of that report shows that the pattern of torture in military custody in the north-east continues unabated.

INDIVIDUAL AND COMMAND RESPONSIBILITY FOR WAR CRIMES

Those who gave orders or directly participated in the commission of these crimes should be investigated to establish their individual responsibility. Superior officers could also bear responsibility for violations committed by units under their command in accordance with the doctrine of command responsibility, even if they did not directly participate in or give orders to commit the violations, if they knew or should have known about the crimes and failed to prevent them or to submit the matter for prosecution.

Amnesty International therefore calls for the investigation of those within chain of command of the military in Nigeria who either were directly responsible for the troops committing the crimes or who knew or should have known and took no steps to prevent or suppress the crimes. Specifically, military officers who ran the operations and were in charge of detention facilities in north-east Nigeria, as well as their commanders at the Army headquarters and Defence headquarters, should be investigated for responsibility for the war crimes of murder, enforced disappearance and torture.

Documentary evidence presented in this report clearly shows that the senior military leadership was fully informed (by field commanders, investigative commissions, and external sources) of the nature and scale of the crimes being committed and failed to take any meaningful measures to stop the violations. As far as we are aware these officers have taken no steps to ensure that investigations are instituted, aimed at bringing the perpetrators to justice.

From November 2012 to August 2013 in their daily field reports to Defence Headquarters, the General Officers Commanding (GOCs) of military detention facilities and commanders of operations reported the deaths of detainees.

Some of these reports contain the names of the detainees; others only referred to the number of detainees who died each day. One such report, sent from the Maiduguri headquarters of JTF Operation Restore Order on 15 March 2013 to Defence Headquarters and Army Headquarters, stated, for example: “ [On 9 March 2013 at 14:30], 7 BHT[Boko Haram terrorist] suspects in own detention facility died after brief illness... [On 10 March 2013 at 13:23], 7 BHT suspect in own detention facility died after brief illness... [On 11 March 2013 at about 18:06], 7 BHT suspects in own detention facility died after brief illness. ..[On 12 March 2013 at about 15:00], 8 BHT suspect in own detention facility died after brief illness... [On 14 March 2013 at about 16:10], 10 BHT suspect in own detention facility died after brief illness.”

Internal military documents cited in this report show also that field commanders informed Defence Headquarters that facilities were overstretched, and that overcrowding, combined with the use of chemicals for disinfection, contributed to the rise in deaths in custody.

Defence Headquarters on several occasions sent teams to the military facilities in the north-east to assess operations “and authenticate data”. The reports from these assessment visits mention the high death rate of detainees in military custody and warn that the overcrowding caused serious health problems and could lead to an epidemic.

Internal military reports examined by Amnesty International also show that field commanders regularly informed Defence Headquarters and Army Headquarters how many people had been arrested during cordon-and-search operations. The reports usually label those arrested as “confirmed Boko Haram members” or “confirmed Boko Haram terrorists,” but do not reference any evidence against them and at times indicate, on the contrary, that no evidence was found. The reports do not specify whether any of the detainees were later released, handed over for investigation or charged. This should have clearly indicated to the military command that these mass arrests were arbitrary and that the ongoing confinement of suspects in military detention facilities was unlawful.

Amnesty International brought its findings and concerns to the attention of Nigerian military and civilian authorities in public reports and statements and private letters of inquiry, repeatedly calling for an independent and impartial investigation.

Despite ample information about violations committed by the security forces, Nigerian military and civilian authorities have consistently failed to take meaningful action to stop them and to bring the perpetrators to justice. Little or no action was taken to improve conditions in detention and to prevent deaths in custody, or to address mass arbitrary arrests and detentions. Extrajudicial executions, torture, and other widely reported crimes remained uninvestigated and unpunished.

Moreover, in recent years, Nigerian authorities have increasingly tried to downplay and dismiss the allegations of violations by the military. For example, in a letter to Amnesty International in December 2013, Defence Headquarters denied that rates of death in custody

were as high as alleged, while in October 2014, President Jonathan said that he believed the reports of human rights violations by security forces to be “exaggerated”.

Nigerian authorities have repeatedly assured Amnesty International that they would investigate allegations, but so far have provided no information about the progress of such investigations or which cases were being investigated.

In the few cases where investigations have been publicly announced, the investigations have been led by the military and carried out by internal investigation teams set up by the military. The terms of reference, scope and outcomes of these investigations have not been made public to date, no findings have been made public by any of these investigation teams and Amnesty International is not aware of any military personnel being investigated or suspended pending investigation.

This report describes the botched investigations into mass executions following the attack on Giwa barracks in March 2014 and into the killings and destruction of civilian property during a “mop-up” operation in Baga in April 2013.

In the light of its findings in this report, Amnesty International believes that the following military officers should be investigated for the war crimes of murder, enforced disappearance and torture:

- **Major General John A. H. Ewansiha.** He was General Officer Commanding (GOC) of Operation Restore Order I (ORO) and Operation BOYONA between January 2012 and August 2013. He then became Chief of Standards and Evaluation at Army Headquarters and Chief of Training and Operations at Army Headquarters. As GOC, he received regular reports about the arbitrary arrest and unlawful detention of thousands of people in inhumane conditions, the deaths in custody of large numbers of detainees and extrajudicial executions in areas under his command.
- **Major General Obida T. Ethnan.** He was Commander of 7 Division from 22 August 2013 until 1 January 2014. During this period, Amnesty International documented arbitrary arrests and unlawful detention of thousands of people in inhumane conditions, the deaths in custody of large numbers of detainees and extrajudicial executions by troops under his command.
- **Major General Ahmadu Mohammed.** He was Commander of 7 Division from 24 February until 16 May 2014. During this period, Amnesty International documented arbitrary arrests and unlawful detention of thousands of people in inhumane conditions, the deaths in custody of large numbers of detainees and extrajudicial executions by troops under his command. He was in charge of military operations when the military executed more than 640 detainees who escaped from Giwa barracks after a Boko Haram attack.
- **Brigadier General Austin O. Edokpayi.** He was commander of the Multinational Joint Task Force based in Baga from at least April 2013 until December 2013, where Nigerian soldiers were responsible for arbitrary arrests and unlawful detention, the extrajudicial executions of more than 185 people in April 2013, and deaths in custody in Baga detention facility.
- **Brigadier General RO Bamigboye.** He was Commander of the 21 Armoured Brigade (stationed in Giwa barracks) from February 2012 till September 2013. He was in

charge of the barracks during the period when at least 5,000 detainees died in custody, and when torture and ill-treatment were used routinely.

In addition, Amnesty International believes that the following high-level military commanders should be investigated for their potential command responsibility for crimes committed by their subordinates, on the basis that they knew or should have known about the commission of the crimes and failed to take adequate action to prevent the commission of war crimes, to stop the commission of war crimes and to take all steps necessary to ensure the alleged perpetrators are brought to justice in fair trials:

- **Lt. General Azubuike Ihejirika.** He was Chief of Army Staff from September 2010 until he retired in January 2014.
- **Admiral Ola Sa'ad Ibrahim.** He was Chief of Defence Staff from 4 October 2012 until 16 January 2014.
- **Air Chief Marshal Alex Badeh.** He was Chief of Defence Staff from 16 January 2014 to the time of writing.
- **Lt. General Ken Minimah.** He was Chief of Army Staff from 16 January 2014 to the time of writing.

INTERNATIONAL MILITARY ASSISTANCE TO NIGERIA

Since 2012, at least 20 countries have provided military assistance to the Nigerian government in the form of weapons, equipment, training and financial support earmarked for military needs. International support intensified after the abduction of 276 girls from the girls' school in Chibok, Borno State on 14 April 2014. Regional summits were held, in Paris, London and Abuja, where states pledged to share intelligence and develop a regional counterterrorism strategy in order to oppose Boko Haram.

It is not clear to what extent human rights concerns have affected relations with Nigeria's bilateral partners.

In response to the abduction in Chibok, member states of the Lake Chad Basin Commission (LIST) and Benin resuscitated plans for a Multinational Joint Task Force to fight Boko Haram. Chad, Niger and Nigeria had established this force in 1998 to deal with cross border crime, but Chad and Niger withdrew their troops from Nigeria in 2013 and 2014 respectively. Under current proposals, the force would include 8,700 personnel and have its headquarters in N'djamena. At the time of writing the African Union had given its support to the proposal, and it was waiting to be put on the United Nations Security Council's agenda.

Boko Haram has repeatedly struck at civilians and security forces across the border in Cameroon, Chad and Niger. From mid-February 2015, the armed forces of those three states assisted the Nigerian military to push Boko Haram out of major towns in north-east Nigeria.

THE INTERNATIONAL CRIMINAL COURT

In November 2010, the Office of the Prosecutor of the International Criminal Court opened a preliminary examination of the situation in Nigeria, analysing alleged crimes committed since 2004. Two years later, the Office of the Prosecutor reported that it considered that since July 2009, Boko Haram had committed the crimes against humanity of murder and persecution.

However, in the same report it indicated that it did not consider that the actions of the security forces qualified as an attack against the civilian population.

In its November 2013 report, the Office of the Prosecutor determined that since at least May 2013, the situation in north-east Nigeria should be considered a non-international armed conflict, and indicated that it would continue to analyse the evidence to determine whether either side had committed war crimes.

A year later, in December 2014, the Office of the Prosecutor again concluded that members of Boko Haram had committed crimes against humanity and may have committed war crimes. It also indicated that it had received reports of crimes committed by the security forces, including the extrajudicial execution of more than 600 people after Giwa barracks attack and allegations of torture, although it did not come to a conclusion on this point. The Office of the Prosecutor stated that it would continue its analysis of alleged war crimes by both parties to the conflict.

KEY RECOMMENDATIONS

The Federal Government of Nigeria must publically acknowledge and immediately put an end to crimes under international law by the Nigerian military. It must initiate prompt, independent, impartial, and effective investigations into allegations of such crimes by both parties to the conflict. The aim of these investigations must be to bring suspects to justice in fair trials that are not subject to the death penalty. These investigations are not only required by international law, but would constitute important first steps toward providing the conflict's victims with a form of reparations, as well as helping to deter such crimes in the future.

It must implement safeguards against unlawful arrest; unlawful, incommunicado and arbitrary detention; torture and ill-treatment; enforced disappearance; extrajudicial executions and other unlawful killings.

The Government should also make public the findings of all previous inquiries into the conflict and launch an inquiry into the failure to adequately respond to allegations of human rights violations by the former government. It should fully domesticate international human rights law and cooperate with regional and international human rights bodies.

The Government must provide an effective remedy to victims of human rights violations and their families, including compensation, rehabilitation and reparations, as well as humanitarian relief to all affected communities.

Nigeria's National Assembly has a vital role in domesticating international human rights law and overseeing the conduct of the executive branch of government in its military operations in the northeast of Nigeria. It should also ensure that appropriate inquiries are established to account for past failures to investigate and address human rights violations.

The National Human Rights Commission should exercise its authority to investigate all allegations of crimes under international law and continue to visit all detention centres.

Organs of the African Union (AU), in particular the Assembly of Heads of State and Government, the Commission Chairperson, and the African Commission on Human and

Peoples' Rights (ACHPR), should publically express concern about repeated allegations of crimes under international law by the Nigerian military and should call upon the Government of Nigeria to investigate these allegations.

In addition, the AU Assembly should request the AU Peace and Security Council (PSC) to urgently assess and report on the conflict situation in north-eastern Nigeria, including making recommendations on urgent measures needed to investigate all allegations and to strengthen safeguards against recurrence of such violations by Nigerian military at its next ordinary summit in early 2016.

The United Nations Human Rights Council should adopt a resolution calling on Nigeria to investigate allegations of crimes under international law committed by both parties to the conflict and request a report from Nigeria on steps taken to investigate such allegations to date.

The Office of the High Commissioner for Human rights should express concern about repeated allegations of crimes under international law by the Nigerian military and offer support to any investigations of these allegations by Nigeria.

Nigeria's international partners should ensure that any military assistance to Nigeria is human rights compliant, particularly that they do not provide assistance to units accused of crimes under international law and other serious violations of human rights. They should further vet all Nigerian military personnel recommended for training.

Nigeria's international partners should call on Nigeria to implement safeguards against human rights violations by the military and to investigate allegations of crimes under international law by both parties to the conflict.

The Office of the Prosecutor of the International Criminal Court should consider the evidence contained in this report as part of its preliminary examination of the situation in Nigeria; particularly to identify what steps Nigeria is taking to bring those responsible for war crimes documented in the report to justice and to reconsider its finding that there is insufficient evidence to conclude that members of the Nigerian military have committed crimes against humanity.

RESEARCH METHODOLOGY

This report is based on more than 412 interviews, conducted in person and by phone with survivors, victims, their relatives, eyewitnesses, human rights activists, doctors, journalists, lawyers and military sources. Between 2013 and 2015, Amnesty International (International Secretariat) delegates conducted six field investigations in north-east Nigeria and one in northern Cameroon.²

Amnesty International also analysed more than 90 videos and numerous photographs showing members of the security forces and their allied militia, the Civilian JTF, in the process of committing violations. Amnesty International conducted an extensive content analysis of the videos, extracting and examining specific features depicted in it. The analysis included image enhancement techniques and reviewing the videos in slow motion. The content analysis has been supplemented by an analysis of the videos' metadata. Amnesty International also interviewed witnesses who could independently verify the content of the videos.

Further, satellite images of the sites of five incidents (both before and after) were also studied to assess the impact of the armed conflict on the ground.

Amnesty International also interviewed eight independent military sources, including four high-level military officials who were either based in the north-east or travelled there frequently and because of the nature of their function, had detailed knowledge about military operations. Five of these sources were interviewed frequently between July 2013 and May 2015. These independent sources gave corroborating evidence.

Amnesty International examined more than 800 official documents. These include 729 military documents, mostly correspondence between the military headquarters and the field, and daily reports from military units based in the north-east, sent between 2013 and 2014. Among the documents are lists of people arrested and detained, lists of people who died in military custody, photos of detainees, instructions sent to military units in the field and inspection reports. Due to their sensitive nature, Amnesty International cannot reveal the source of this documentation. However, Amnesty International has independently verified the documents and confirmed their authenticity.

In addition, Amnesty International examined reports by other NGOs, public statements, media reports, court documents, legislation, reports by committees set up to investigate the conflict in the north-east, and transcripts of debates held in the National Assembly.

² Amnesty International visited Maiduguri in April and May 2013, in June and July 2014 and in March and May 2015. In May 2015 delegates also visited Yola, Adamawa state. In July and August 2013, Amnesty International visited Bauchi, Kaduna and Plateau states. In November 2014, an Amnesty International delegation visited IDP camps in Bauchi, Gombe and Nasarawa states. The research is also based on numerous visits to Bauchi, Borno, Kaduna and Kano states and the Federal Capital Territory (FCT) between 2010 and 2015.

Amnesty International requested, but was not granted, access to military detention facilities.³

In November 2012 and September 2014, Amnesty International held 16 meetings with Nigerian authorities, including officials at Defence Headquarters, Army Headquarters, the Office of the Attorney General of the Federation and Minister of Justice, the Office of the National Security Adviser, members of the National Assembly as well as Borno state officials.⁴ In addition, Amnesty International has written 57 letters to the Federal and state authorities since 2013, sharing research findings, raising concerns about ongoing violations and requesting information and specific action, such as investigations. Amnesty International received 13 responses.

Amnesty International has also shared the key findings of this report with the Federal Minister of Justice and Attorney General, National Security Advisor, Chief of Defence Staff, Chief of Army Staff, and Minister of Foreign Affairs. On 6 November 2014, Amnesty International submitted the key findings, requested further information and invited the authorities to provide an official response or comment, pursuant to the Freedom of Information Act 2011. On 23 December, the Chief of Defence Staff replied, responding in part to the questions. This response has been reflected in this report. On 23 December, the Chief of Army Staff responded that any request for information should be made via the Federal Ministry of Justice. On 7 January 2015, the Attorney General of the Federation and Minister of Justice responded, stating that he had requested information from the Secretary to the Government of the Federation, National Security Advisor, Chief of Defence Staff and Inspector General of Police. He asked for time to collate the documents requested. The National Security Advisor responded on 10 February 2015 to acknowledge receipt and request time to gather the documents sought. On 5 May, Amnesty International wrote to the Chief of Defence Staff and the Attorney General of the Federation requesting further information.

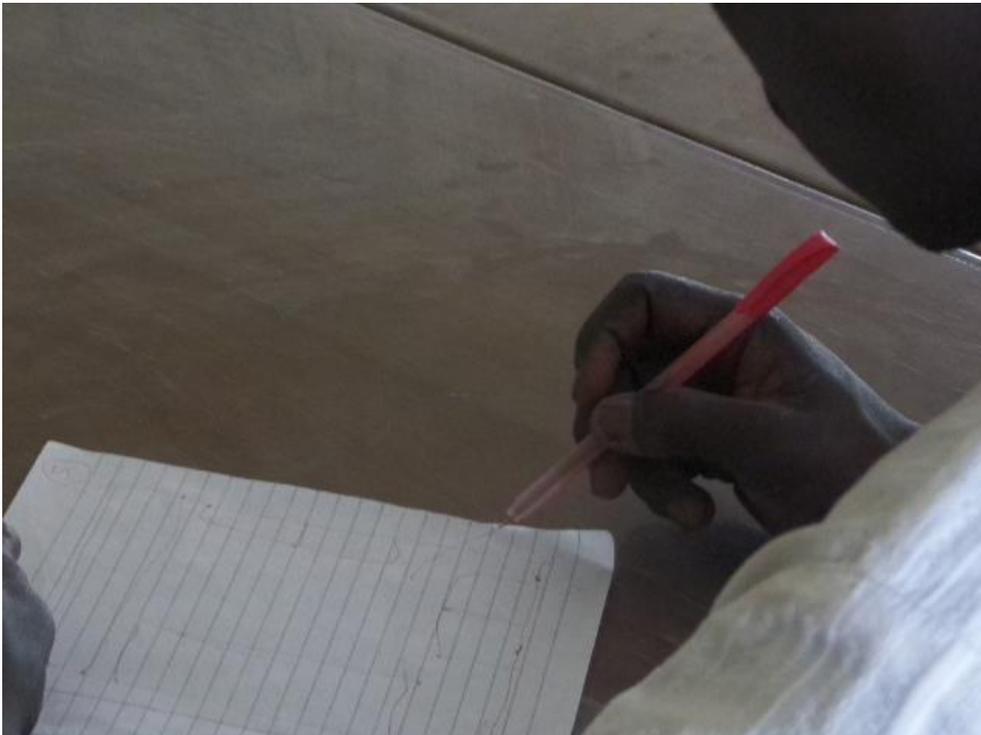
Amnesty International has shared the findings of this research and relevant evidence, including official documents and videos, with the Office of the Prosecutor of the International Criminal Court (ICC). The organization has also submitted to the ICC a list of names of military officers who should be investigated for their possible role in the crimes under international law and serious human rights violations documented in this report.

³ Amnesty International wrote formally to the Chief of Defence Staff to request access to military detention in April 2013; in July 2013 Amnesty International again requested access to military detention in a meeting with Defence Headquarters. The request was not granted “for operational reasons”.

⁴ In September 2014, Amnesty International delegates held meetings to share findings of this report with the Office of the Attorney General; representatives of the Army Headquarters; representatives of the Office of the NSA; representatives of the Ministry of Foreign Affairs, and the National Human Rights Commission. In July 2013, Amnesty International delegates held meetings to share findings of its research on death in custody, torture and Boko Haram attacks on schools with representatives of the Defence Headquarters; the Attorney General of the Federation and Minister of Justice; representatives of the Federal Ministry of Education; representatives of the Borno State Ministry of Education; the National Human Rights Commission; Inspector General of Police; and Chair of the Committee against Torture. In November 2012, Amnesty International delegates held meetings to share findings of the report ‘Nigeria: Trapped in the cycle of violence’ with the Office of the NSA; Inspector General of Police; Attorney General and National Human Rights Commission.

For the safety of witnesses, in most cases Amnesty International does not reveal their real names or other identifying information.

This report builds on previous reports on the situation in north-east Nigeria published by Amnesty International, including: *'Our job is to shoot, slaughter and kill': Boko Haram's reign of terror in north-east Nigeria*;⁵ *'Welcome to hell fire': torture and other ill-treatment in Nigeria*;⁶ *'Keep away from schools or we'll kill you': right to education under attack in Nigeria*;⁷ *Nigeria: trapped in the cycle of violence*;⁸ as well as numerous press releases and public statements.



Former detainee drawing a diagram of cells in Giwa barracks, Maiduguri. Amnesty International interviewed Hussaini Kallo (not his real name) in March 2015 in Maiduguri, Nigeria. Hussaini was arrested by the Nigerian military in 2012 and detained for 18 months in Giwa barracks, Maiduguri.

⁵ Amnesty International, *'Our job is to shoot, slaughter and kill': Boko Haram's reign of terror in north-east Nigeria*, (Index: AFR 44/1360/2015), April 2015.

⁶ Amnesty International, *'Welcome to hell fire', torture in Nigeria*, (Index: AFR 44/021/2014), September 2014.

⁷ Amnesty International, *'Keep away from schools or we'll kill you': right to education under attack in Nigeria*, (Index: AFR/44/19/2013), October 2013.

⁸ Amnesty International, *Nigeria: trapped in the cycle of violence*, (Index: AFR/44/043/2012), November 2012.

BACKGROUND

“Nigeria has been sold to the rich and wealthy. Law and justice is only for the rich and wealthy. There is no respect for humanity or for poor people. No rule of law for us. Only chaos and destruction. I don’t wish to go back to Nigeria soon. Unless there is a complete change. The only thing guaranteed to poor Nigerians is the rain and the sun, because they’re not provided by government. Poor people don’t have any human dignity. Some pet animals of rich people, live a more dignified life than many of us in this camp. Even the air we breathe, they can take away when it suits them by killing you needlessly.” Alhaiji Grema (not his real name), a 50-year-old welder from Gamborou, now in a refugee camp in Cameroon.⁹

ARMED CONFLICT IN NORTH-EAST NIGERIA

The conflict in Nigeria dates back to 2009, when the insurgent movement, *Jama’atu Ahlis Sunna Lidda’awati wal-Jihad*, popularly known as Boko Haram (western education is forbidden), started a violent campaign against the Nigerian government. Amnesty International and other organizations have reported extensively on the emergence and evolution of Boko Haram.¹⁰

The conflict has spread and intensified as a result of a complex web of socio-cultural, economic, ethno-religious and geographic factors. It has evolved into a full-scale armed struggle between Boko Haram and Nigerian security forces in the states of Borno, Yobe, and Adamawa, marked by egregious violations committed by both sides. It has claimed at least 17,000 lives,¹¹ mostly civilian, and forced more than one million people to flee their homes.

While Nigerian authorities continued to speak publicly about an internal security operation against an “insurgency”,¹² the Joint Investigation Team (JIT)¹³ established by Defence Headquarters acknowledged that between 2009 and 2013, the military operation changed from internal security operations to a “full scale offensive against the BHT [Boko Haram terrorist] insurgents.”¹⁴ Former President Goodluck Jonathan also frequently spoke about a war on terrorism.¹⁵

⁹ Amnesty International interview, February 2015. His real name has not been used.

¹⁰ Amnesty International, *Nigeria: trapped in the cycle of violence*, (Index: AFR/44/043/2012), November 2012; Human Rights Watch, *Spiralling violence: Boko Haram Attacks and Security Force Abuses in Nigeria*, October 2012, and International Crisis Group, *Curbing Violence in Nigeria (II): The Boko Haram Insurgency*, 3 April 2014.

¹¹ Amnesty International research between 2009 and 2015.

¹² In the Emergency Powers (General) Regulations, 2013, the situation in the north-east is referred to as “serious crises, internal tension and civil disturbances which presently constitute grave threats to peace, order, good governance, security and safety of life and property”. In his speech announcing the state of emergency on 14 May 2013, President Jonathan referred to “terrorist activities and protracted security challenges”.

¹³ The team was made up of representatives from the military, the Office of the National Security Adviser and the office of the Attorney General.

¹⁴ JIT report, August 2013.

¹⁵ See for example: Democracy Day 2014 Broadcast by President Goodluck Jonathan, 29 May 2014, “a

Amnesty International believes that the situation in north-east Nigeria has constituted a non-international armed conflict since at least May 2013, considering factors including the level of intensity of hostilities and the fact that Boko Haram is a well-organized force which controls territory and has a clear command structure.¹⁶ The Office of the Prosecutor of the International Criminal Court has also determined that the fighting in north-eastern Nigeria had, by May 2013, reached a level of intensity and persistence that qualified it as a non-international armed conflict.¹⁷

Between 2012 and early 2013, the dynamics of the conflict evolved. The number of Boko Haram attacks and the number of victims rose sharply. Since May 2013, President Goodluck Jonathan declared and twice extended a state of emergency in Borno, Yobe, and Adamawa states, giving broad and stringent emergency powers to the security forces. The declaration of the state of emergency also meant that high-level political and security decision-making powers were technically removed from the governors of the three states and transferred to President Jonathan.¹⁸ The state of emergency expired in November 2014 and although President Jonathan asked the National Assembly to extend it again, at the time of writing it had not done so.

In mid-2013, state security forces pushed Boko Haram out of the cities and towns of north-east Nigeria where they had lived among the population. They moved to remote communities and camps, such as their headquarters in Sambisa forest, Borno state. From these bases, Boko Haram launched almost daily attacks against civilian targets. From July 2014 Boko Haram began to capture major towns. By February 2015, it controlled the majority of Borno state, as well as northern Adamawa state and eastern Yobe state. In February 2015 a counter-offensive by the Nigerian military, with support from Cameroon, Chad and Niger, forced Boko Haram to leave the major towns and released many civilians from Boko Haram's rule. By April 2015, all territory apart from Sambisa forest and Mandara mountains was recovered. Boko Haram however continued to attack civilians, although less frequently.

Several attempts at negotiations between the warring parties proved unsuccessful and the conflict continues to date.

While religion appears to be one of the drivers of the conflict, a number of other factors contribute to the ongoing instability in the region. These include the shrinking political influence of the north and the dissatisfaction of the northern elites with the current balance

war has been unleashed on us", "an unconventional war by terrorists" "we must remain united to win the war against terrorism". www.statehouse.gov.ng/index.php/news/speeches/365-democracy-day-2014-broadcast-by-president-goodluck-jonathan.

¹⁶ See: Amnesty International: *'Our job is to shoot, slaughter and kill': Boko Haram's reign of terror in north-east Nigeria* (Index: AFR 44/1360/2015), April 2015.

¹⁷ International Criminal Court, *Report on Preliminary Examination Activities 2013*, November 2013.

¹⁸ State of Emergency (Certain states of the Federation) Proclamation, 2013. In January 2012, President Jonathan declared a six-month state of emergency in 15 local government areas in the north.

of power,¹⁹ poor governance, corruption, marginalization²⁰ and poverty.²¹ The vast majority of victims as well as Boko Haram fighters are young, illiterate or semi-literate and unemployed men. Many come from disadvantaged sections of society with limited or no social safety nets.

BOKO HARAM

Boko Haram has targeted and killed members of the Nigerian security forces, local and state government officials, teachers, health workers, religious figures, lawyers, journalists and traders, civil servants and traditional leaders as well as unarmed members of civil defence groups. The vast majority of Boko Haram's victims are civilians. Boko Haram has used bombs to launch attacks against government or "western" targets, to intimidate opponents and to kill civilians.²² Its fighters have killed civilians in attacks on towns and villages; attacked and abducted teachers and students; abducted at least 2,000 young women and girls and subjected them to forced marriage; forcibly recruited men and boys; carried out forced conversions; and burnt and destroyed houses and schools. Between 2014 and March 2015, Boko Haram killed more than 5,500 people, although the true figure is almost certainly higher.

From July 2014, Boko Haram started to establish full control over captured towns and villages, collecting "taxes" from residents, and limiting their movement. By January 2015, it controlled the majority of Borno state, as well as northern Adamawa state and eastern Yobe state. In February 2015 a counter-offensive by the Nigerian military, with support from Cameroon, Chad and Niger, forced Boko Haram out of the major towns, releasing their residents from Boko Haram's rule, but it is too early to judge whether this has weakened Boko Haram's ability to threaten the lives and property of civilians in the north-east.

Amnesty International has documented abuses committed by Boko Haram fighters extensively, concluding that they amount to war crimes and crimes against humanity. Amnesty International's recent report *'Our job is to shoot, slaughter and kill': Boko Haram's reign of terror in north-east Nigeria*, contains information on Boko Haram's organizational structure, recruitment tactics and resources, and details abuses committed by the group in 2014 and 2015.

NIGERIAN SECURITY FORCES

Since 2011, there have been four major operations in the north-east to counter Boko Haram. Operation Restore Order I (ORO I), from June 2011 till May 2013, was the first. Some 4,000 troops served in Borno state and, together with the police and members of other security forces, formed the Joint Task Force (JTF). In Yobe state, ORO III was established in

¹⁹ Chatham House, *Who speaks for the North? Politics and Influence in Northern Nigeria*, July 2014.

²⁰ According to the 2006 census, there were 4.1 million people in Borno state, 3.1 million in Adamawa and 2.3 million in Yobe, making a total of 9.5 million people in the affected states. Nationally, 33% of the population aged six and above in Nigeria was not literate in 2006. In Borno state, this percentage was 67%, in Adamawa 48% and in Yobe 65%. According to a Chatham House report in July 2014 (*ibid.*), the highest levels of unemployment in Nigeria are in nine of the 19 states in the northern region.²⁰

²¹ International Crisis Group, *Curbing Violence in Nigeria (II): The Boko Haram Insurgency*, 3 April 2014; Council on Foreign Relations, *U.S. policy to Counter Nigeria's Boko Haram*, November 2014.

²² Amnesty International, *Nigeria: trapped in the cycle of violence*, (Index: AFR/44/043/2012), November 2012.

December 2011 and ran until August 2013. ORO III had some 2,000 troops.

OPERATION	DATES	AREA	FORCES	COMMANDER	OVERSIGHT
Operation Restore Order I (ORO I)	12 June 2011 – 15 May 2013	Borno state, Headquarters in Maiduguri	Joint Task Force: Nigerian Army, Navy and Airforce, the Nigeria Police Force (NPF), Department of State Security (DSS), Nigerian Immigration Service (NIS) and the Defence Intelligence Agency (DIA). Troops included those from 1 Division, 81 Battalion, 174 battalion, 82 Battalion (~4,000 troops)	Brigadier General Jack Okechukwu Nwaogbo (July 2011 - January 2012) Major General Ewansiha (12 January 2012 – May 2013)	Defence Headquarters
Operation Restore Order III (ORO III)	13 December 2011 – 15 May 2013	Yobe state	Joint Task Force: Nigerian Army, Navy and Airforce, the Nigeria Police Force (NPF), Department of State Security (DSS), Nigerian Immigration Service (NIS) and the Defence Intelligence Agency (DIA). (~2,000 troops)		Army Headquarters
Operation BOYONA	May 2013 – August 2013	Borno, Yobe Adamawa states, HQ in Maiduguri	Joint Task Force: Nigerian Army, Navy and Airforce, the Nigeria Police Force (NPF), Department of State Security (DSS), Nigerian Immigration Service (NIS) and the Defence Intelligence Agency (DIA). (~10,000 troops)	May 2013 – August 2013: Major General Ewansiha	Defence Headquarters
Operation Zaman Lafia	August 2013 – to date	Borno, Yobe Adamawa states, HQ in	Newly established Army Division 7	Major General Ethan (August 2013-	Army Headquarters

		Maiduguri	(~10,000 troops)	<p>January 2014)</p> <p>Major General Bindawa (January – February 2014)</p> <p>Major General Mohammed (February – May 2014)</p> <p>Brigadier General Ibrahim (May 2014 – 19 January 2015)</p> <p>Major General Lamidi Adeosun (19 January 2015 – till date)</p>	
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ORO I was replaced by Operation BOYONA, which covered Borno, Yobe and Adamawa states (the acronym derives from the names of the three states). Operation BOYONA was launched when the state of emergency was announced in May 2013 and had some 10,000 troops. Both ORO I and its successor Operation BOYONA reported to the Chief of Defence Staff.

On 19 August 2013, operational command of Operation BOYONA was taken over by the Chief of Army Staff (COAS) when the newly established Army Division 7 took over from the JTF and military forces took over fully from the police in actions against Boko Haram. Operation Zaman Lafiya, with 10,000 troops, was launched as the successor to Operation BOYONA.

Former President Goodluck Jonathan said in May 2014 that there were 20,000 troops deployed in the north-east,²³ although the actual number of troops, according to military sources interviewed by Amnesty International, appears to be lower.

Since April 2012, the Multinational Joint Task Force, originally established in 1998 to deal with cross-border banditry and comprising troops from Chad, Niger and Nigeria, has also been tasked with “the fight against Boko Haram Terrorism (BHT) in the Lake Chad Region.”²⁴

²³ “Paris Summit for Security in Nigeria – Conclusions” 17 May 2014; www.elysee.fr/declarations/article/paris-summit-for-security-in-Nigeria-conclusions

²⁴ Message from MNJTF HQ to DHQ, dated 11 May 2012, MNJTF/G3/240/02, Request for Intelligence Operatives and Equipment.

The Multinational JTF has some 1,200 troops and reports to the Chief of Defence Staff.²⁵

Niger and Chad both withdrew from the Multinational JTF, but after the abduction of the schoolgirls from Chibok, the countries of the Lake Chad Basin Commission (LCBC) and Benin resolved to re-establish the Multinational JTF. The Multinational JTF will include battalions from each of the LCBC member states and Benin up to 10,000 personnel from the LCBC Member States and Benin.

The Armed Forces Council²⁶ is responsible for the command and discipline of the armed forces. The Chief of Defence Staff is vested with the day-to-day command of the armed forces. The army does not have a civilian oversight body; the National Assembly provides a general oversight role.²⁷

The President, as Commander in Chief, is ultimately responsible for all military operations²⁸ and was and has been regularly briefed by the Chief of Defence Staff.²⁹

MILITARY RESOURCES

Since the start of the conflict, the budgets for defence and security have increased massively but there is little sign of the money reaching the frontline. An estimated sum of almost N350billion (US\$2billion), was allocated in 2014 to the armed forces. In addition, several other offices had budget lines related to the conflict. The allocation to the armed forces was the largest item in Nigeria's federal budget and formed some 7.5% of the total.³⁰ It is very hard to determine how much of that money went to the north-east. In October 2014, the National Assembly approved a request to borrow US\$1billion as an additional amount, half of the total 2014 defence budget, for purchase of military equipment.

Several high-ranking military sources have told Amnesty International that operations in the north-east remain under-resourced due to a high level of corruption. The diversion of funds leads to shortages and poor maintenance of equipment and facilities, and to soldiers being underpaid.³¹ This information is corroborated by field reports reviewed by Amnesty

²⁵ In July 2013, there were 800 troops. However, at the 24th summit of the Heads of State and Government of the African Union, it was agreed that Nigeria, Chad and Niger would be contributing 1,200, 700 and 320 troops respectively.

²⁶ Chaired by the President, and attended by the Minister of Defence and the Permanent Secretary, Chief of Defence Staff (CDS), Chief of Army Staff (COAS), Chief of Naval Staff (CNS) and Chief of Air Staff (CAS).

²⁷ Civil Society Legislative Advocacy Centre (CISLAC), *Nigeria: Navigating secrecy in the vetting and selection of peacekeepers*, 2014.

²⁸ The Act to provide for the command, maintenance and administration of the Armed Forces Act (1994) describes the function, structure and operation of the armed forces.

²⁹ Letter from Chief of Defence Staff to Army Headquarters, Naval Headquarters, Headquarters JTF, and Headquarters Operation Restore Order, *Operational Command of Operation BOYONA*, 28 May 2013. In the letter the CDS stressed that "the C-in-C [Commander in Chief] is briefed regularly on the progress of the operational aspects of the State of Emergency." The Chief of Defence Staff asked the headquarters to ensure that their commanders in Adamawa and Yobe states were informed of this change in command "for compliance".

³⁰ Budget office of the Federation, www.budgetoffice.gov.ng. The defence budget increased from N122 billion in 2007 to N359 billion in 2012.

³¹ Amnesty International interviews, July 2013 - November 2014.

International.³² Military sources have told Amnesty International that due to a shortage of troops, the mandatory six-month rotation term that was in place for the JTF was no longer respected – some troops have stayed for two years or more.³³ The six-month rotation policy ended in August 2013 when 7 Division was established, which meant that the troops were permanently based in the north-east. Furthermore, according to military sources, the intensity of the conflict and lack of troops have resulted in the cancelation of leave and training.³⁴ Internal reports show that by January 2013 the military leadership was aware of the impact of extending postings in the north-east beyond the six-month period, but failed to take action to address the problem.³⁵

There has been a steady increase in reported cases of “absence without leave” (AWOL), as many soldiers have left the military without permission, especially since the fighting intensified in July 2014 and Boko Haram started occupying towns in the north-east.³⁶

The combination of under-resourcing, low morale and impunity for violations has created an atmosphere in which the security forces have not only repeatedly failed to protect the civilian population from attacks by Boko Haram,³⁷ but have also been involved in rampant human rights violations, as documented in this report.

CIVILIAN JOINT TASK FORCE

In June 2013, the Borno state authorities set up a civilian militia, the Civilian Joint Task Force (Civilian JTF), to work with the security forces in Borno state by identifying and helping to arrest Boko Haram members.³⁸

The militia consists of boys and men aged between 14 and 30, paid for their services by the Borno state government and trained at the National Youth Service Corps camp by the military and the mobile police.³⁹ The precise number of Civilian JTF members is difficult to verify;

³² According to a report from headquarters MNJTF to DHQ on 6 March 2013, the forces lacked protection equipment and vehicles. A report dated 26 April 2013, highlighted the lack of communication equipment. A report sent by HQ MNJTF to DHQ on 18 May 2013, mentioned that the MNJTF lacked adequate boats; HQ MNJTF requested tents to accommodate soldiers who were living in “improvised huts”.

³³ Amnesty International interviews, May 2014 – November 2014.

³⁴ Amnesty International interview, July 2014.

³⁵ An internal military assessment based on a field visit in January 2013 stated: “The effect of such an over stay on troops’ morale, welfare and discipline, particularly in a difficult terrain like this cannot be over-emphasized. DHQ is therefore requested to ensure that AHQ adheres to the standard rotation policy in order to avoid the inherent negative effects on troops.” Annex A To DHQ/201/54/1/Ops, dated Jan 13, Report of Defence Headquarters Operations Visit to Joint Task Force Operation Restore Order and Multi National Joint Task Force 22-25 January 2013.

³⁶ Amnesty International interviews between July 2013 and November 2014. The field reports confirm frequent cases of “AWOL”.

³⁷ In 2012, Amnesty International was already expressing concern about this failure to protect the population. See Amnesty International, *Nigeria: trapped in the cycle of violence*, (Index: AFR/44/043/2012), November 2012. See also: *Nigeria: Government knew of planned Boko Haram kidnapping but failed to act*, May 2014; *Nigeria: satellite images show horrific scale of Boko Haram attack on Baga*, January 2015; *‘Our job is to shoot, slaughter and kill’: Boko Haram’s reign of terror in north-east Nigeria*, (Index: AFR44/1360/2015), April 2015.

³⁸ Amnesty International interviews, July – December 2014.

³⁹ Amnesty International interview, September 2014.

between 1,400 and 1,700 are registered and receiving salary. In addition, there are thousands of unregistered and unpaid Civilian JTF members.⁴⁰

Initially, the Civilian JTF were not given arms, but armed themselves with sticks and machetes. Since August 2014, Amnesty International has received reports that the Civilian JTF in Maiduguri are carrying locally made guns, and that they man checkpoints armed with these guns.

Most Civilian JTF members have joined voluntarily to protect their communities or to earn a livelihood, although some were forcibly recruited.⁴¹

Civilian JTF members play a key role in “screening” operations and mass arbitrary arrests, and have been involved, as Amnesty International has documented, in beatings and killings of detainees after arrest.

As members of the Civilian JTF took on a more prominent role in arresting Boko Haram suspects, they increasingly became targets for Boko Haram. Boko Haram fighters have attacked communities where a Civilian JTF militia has been formed, killing anyone they suspected to be members of the Civilian JTF, and in some cases all young men and boys in these communities.

In response to a letter to Amnesty International, the Chief of Defence staff denied that the Civilian JTF are “recruited or mobilized” by the military and stated that “they are not structured within the military”.⁴² In practice however, Civilian JTF members fall under military command. A document sent in July 2013 to Defence Headquarters from a commander of the JTF in Maiduguri asserts that the Civilian JTF operates “under close supervision of JTF troops” and “move from ward to ward within their locality to assist in the arrest of BHTs”. Further, “checks have been put in place by the JTF to align their operations through constant monitoring and review of their activities”.⁴³ By July 2014, they had been organized in units, working in close coordination with the military units in their area. Each unit is headed by a chairman, who reports to the chairman of the local government area in which the unit is based.⁴⁴

The military frequently took Civilian JTF members on military operations. One Civilian JTF member told Amnesty International how he and five others joined 20 soldiers to take over a Boko Haram camp near Konduga in June 2014. The Civilian JTF were unarmed. The Boko Haram members fled, according to the Civilian JTF member, because they did not have

⁴⁰ Amnesty International interviews with military sources, Borno state officials, victims, Civilian JTF members and eyewitnesses.

⁴¹ Amnesty International interviews, May 2014 – December 2014.

⁴² Letter from the Chief of Defence Staff to Amnesty International, 23 December 2014, *Re: Statutory request for information in terms of section 2 of the Freedom of Information Act 2011*.

⁴³ Report on Youths volunteer groups in Borno State, from Headquarters JTF Operation Restore Order to Defence Headquarters and Army Headquarters, dated 18 July 2013.

⁴⁴ Amnesty International interviews, including with members of the Civilian JTF, July 2014 – May 2015.

enough ammunition.⁴⁵

According to various military documents, the military relied heavily on the Civilian JTF for its operations in the north-east. For instance, in its August 2013 report, the army's Joint Investigation Team (JIT) mentioned the contribution of the Civilian JTF to the success of military operations. "The involvement of these Youth Volunteers crowned the OP [operation] with success not envisaged in the past.... Their efforts complemented that of the JTF which brought about substantial sanity, restoration of social and economic activities to Maiduguri metropolis."⁴⁶

⁴⁵ Amnesty International interview, June 2014.

⁴⁶ JIT report, August 2013.



Three young men, who were discovered while entering Bama, sit blindfolded in the back of a pick-up truck before being taken for interrogation by the Nigerian army in Bama on March 25, 2015. © Nichole Sobecki/AFP/Getty Images

LEGAL FRAMEWORK

Amnesty International believes that the situation in north-east Nigeria has constituted a non-international armed conflict since at least May 2013. The International Committee of the Red Cross (ICRC) defines a non-international armed conflict as: “protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State. The armed confrontation has reached a minimum level of intensity and the parties involved in the conflict must show a minimum of organisation.”⁴⁷

In a non-international armed conflict, international humanitarian law applies as well as international human rights law. The state remains bound by its obligations under international human rights law while all parties to the conflict, including non-state armed groups, are bound by the rules of international humanitarian law. Thus parties to a conflict are responsible for violations of international humanitarian law. Serious violations of international humanitarian law constitute war crimes⁴⁸ and entail individual criminal responsibility.⁴⁹ Certain crimes, when committed as part of a widespread or systematic attack directed against any civilian population (in furtherance of a state or organizational policy), with knowledge of the attack, constitute crimes against humanity, which also warrant and entail individual criminal responsibility.

The Nigerian state has used its military to counter Boko Haram rather than law enforcement agencies. Meanwhile, Boko Haram has the command structure and capacity to maintain military operations. Large numbers of people had already been killed, injured or displaced in the fighting by mid-2013. The Office of the Prosecutor of the International Criminal Court has also determined that the fighting in north-east Nigeria had, by May 2013, reached a level of intensity and persistence that qualified it as a non-international armed conflict. The International Criminal Court is undertaking a preliminary examination of the situation to determine whether parties to the conflict have committed crimes under international law (which include war crimes and crimes against humanity). Amnesty International’s research has led to the conclusion that the Nigerian military has committed war crimes and may have committed crimes against humanity in north-east Nigeria.

INTERNATIONAL HUMANITARIAN LAW AND WAR CRIMES

International humanitarian law comprises the principles and rules that seek to mitigate the effects of war by limiting the means and methods of conducting military operations and by obliging belligerents to spare those not participating in hostilities. War crimes are serious

⁴⁷ ICRC, “How is the Term ‘Armed Conflict’ Defined in International Humanitarian Law?” International Committee of the Red Cross (ICRC) Opinion Paper, March 2008 and quoted therein, D. Schindler, *The Different Types of Armed Conflicts According to the Geneva Conventions and Protocols*, RCADI, Vol. 163, 1979 -II, p147; and ICTY, *The Prosecutor v. Fatmir Limaj*, Judgment, IT-03-66-T, 30 November 2005.

⁴⁸ ICRC Customary IHL Study, Rule 156.

⁴⁹ See *Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction, The Prosecutor v. Dusko Tadić*, Case No. IT-94-1-AR72, ICTY Appeals Chamber, 2 October 1995 (hereinafter the Tadić case) and commentary included in ICRC Customary IHL Study Rule 156.

violations of international humanitarian law and engage individual criminal responsibility on the part of the perpetrators.

The major sources of international humanitarian law are the Geneva Conventions and their protocols, and customary international law. In a non-international armed conflict the parties to the conflict are bound to comply with the norms contained in Common Article 3 of the Geneva Conventions, Protocol II to the 1949 Geneva Conventions⁵⁰ and customary international humanitarian law. Customary international law consists of rules that are binding on all states and can be defined as “general practice accepted as law.”⁵¹

The very nature of conflict means that not all deliberate killings are prohibited; indeed the killing of enemy combatants is generally permitted (unless they are, for example, *hors de combat* and thus cannot take part in hostilities). On the other hand, the deliberate killing of civilians not directly participating in hostilities is expressly prohibited.

International humanitarian law has developed clear rules that set limits on the conduct of hostilities, designed to protect, to the maximum extent possible, civilians and others who are no longer participating, or can no longer participate, in hostilities. The basic principle is one of distinction: all possible measures must be taken to distinguish between military targets and civilians or civilian objects.⁵² The rules include a prohibition on any direct attacks against civilians.⁵³ Attacks on civilian objects are also prohibited⁵⁴ unless these objects are being used in such a way that they lose their civilian character and qualify as a military objective.⁵⁵

The rules also require the humane treatment of any person in the power of the enemy and obligate the parties to care for the wounded without discrimination. The rules also make clear the narrow circumstances in which civilians or civilian objects lose their protection, for example, when a civilian object is used for military purposes.

LEGAL RESPONSIBILITY FOR VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

States have responsibility for all violations of international humanitarian law committed by their troops or those acting under their authority. This responsibility entails the obligation on the state to ensure full reparation for losses or injuries suffered. While the question as to whether armed groups are under an obligation to make full reparation for violations of international humanitarian law is unsettled,⁵⁶ practice indicates that such groups are

⁵⁰ Nigeria ratified this protocol on 10 October 1988; in any case many provisions of the protocol are considered to reflect customary international law.

⁵¹ Article 38 (1) (b) of the Statute of the International Court of Justice (ICJ).

⁵² *Prosecutor v Dragomir Milošević*, Case No. IT-98-29/1-A, Judgement, 12 November 2009.

⁵³ See for example, ICRC Customary IHL Study, Rule 1; Article 13(2) of Additional Protocol II and the Statute of the International Criminal Court which defines the following as a war crime; “intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities” in non-international armed conflicts.

⁵⁴ ICRC Customary IHL Study, Rule 7 and ICJ, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1. C.J. Reports 1996, p. 226 (the ICJ Nuclear Weapons Advisory Opinion).

⁵⁵ ICRC Customary IHL Study, Rule 10.

⁵⁶ ICRC Customary IHL Study, Rule 150.

required to provide a measure of appropriate reparation.⁵⁷ Victims of serious human rights abuses and violations of international humanitarian law have a right to reparation to address the harm they have suffered, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁵⁸

Not all violations of international humanitarian law constitute war crimes. However, serious violations of international humanitarian law constitute war crimes and engage individual criminal responsibility on the part of the perpetrators.⁵⁹ Violations of international humanitarian law are considered serious, and therefore war crimes, if they endanger protected persons or objects or if they breach important values.

Article 8 of the Rome Statute of the International Criminal Court defines war crimes during an armed conflict not of an international character to include violations of Article 3 common to the four Geneva Conventions (acts against people taking no active part in the hostilities, including violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture). The Rome Statute also criminalizes attacks targeted at the civilian population or against individual civilians not taking part in the hostilities and attacks. While the Rome Statute does not expressly criminalize indiscriminate and disproportionate attacks during non-international armed conflicts, these are war crimes under customary international law and, in any case, may in certain circumstances amount to attacks on civilians.⁶⁰

Individuals, whether civilians or military and regardless of rank, can be held criminally responsible for serious violations of international humanitarian law. Superior orders cannot be invoked as a defence for war crimes⁶¹ although there is some authority that they may be taken into account in mitigation of punishment.⁶²

Commanders may be responsible for crimes under international law under a number of modes of liability, including committing, planning, ordering, aiding and abetting, as well as command responsibility. Command responsibility is a mode of individual criminal responsibility under customary international law, where a military commander or a civilian superior may be responsible for the acts of his or her subordinates if he or she is aware of the

⁵⁷ ICRC, Customary IHL Study, Rule 139.

⁵⁸ Reparation is an essential element of the right to an effective remedy set out in Article 2(3) of the ICCPR. The Human Rights Committee states in General Comment 31 "Without reparation to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of article 2, paragraph 3, is not discharged." Principle 3 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles and Guidelines) states: "The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to...(d) provide effective remedies to victims, including reparation...".

⁵⁹ ICRC, Customary IHL Study, Rule 156. See also, cited therein, the *Tadić* case.

⁶⁰ See various decisions of the ICTY including the *Tadić* case, the Kupreskic case Case No.: IT-95-16-T Case No.: IT-95-16-T 14 January 2000; *Prosecutor v Martić*, IT 95-11-A; *Prosecutor v Galić*, IT 98 – 29/1 – A, and the ICJ Nuclear Weapons Advisory Opinion.

⁶¹ See for example Article 33 of the Rome Statute.

⁶² See commentary on ICRC, Customary IHL Study, Rule 155.

crimes, or should have been aware of them, and fails to prevent or punish them.⁶³

ARBITRARY DEPRIVATION OF LIBERTY

Arbitrary deprivation of liberty in a non-international armed conflict is prohibited by international humanitarian law⁶⁴ and all detention must be authorized by domestic law and be in compliance with international human rights law.⁶⁵ The International Court of Justice and the UN Human Rights Committee have affirmed that international human rights law applies in time of armed conflict as well as peacetime. Some (but not all) rights may be modified in their application (derogated from) or limited in situations of armed conflict, but only to the extent strictly required by the exigencies of the particular situation and without discrimination.⁶⁶

International human rights law and standards guarantee the right to liberty, freedom from arbitrary arrest or detention, and the right to a fair trial. The right to liberty and security of person, the right to a fair trial and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment are recognized and protected under the African Charter on Human and Peoples' Rights, which Nigeria ratified in June 1983.⁶⁷ Similarly, these rights are protected under the International Covenant on Civil and Political Rights, to which Nigeria became a state party in 1993. The right to a fair trial includes the right to be brought before a judge promptly, the right to access to a lawyer; the right to be free from torture and other ill-treatment (including the right to procedural protections against torture); and the right to be presumed innocent unless and until proved guilty. The right to a fair trial includes and depends on the enjoyment of all the other due process rights. These legal provisions should also be enforced to prevent arbitrary detention and torture and to safeguard the right to liberty. Being brought promptly before a judge enables the judge to assess whether an arrest is lawful and if pre-trial detention is necessary as well as providing an opportunity to investigate whether torture has been used. It is the first opportunity for the suspect to challenge the lawfulness of the detention, an ongoing right under the International Covenant on Civil and Political Rights. Other procedural pre-trial rights include the recording of all arrests and detentions; the recording of interviews; access to lawyers, doctors and family; and inspection of detention facilities.

Under treaties such as the International Covenant on Civil and Political Rights, states may derogate from some human rights provisions during officially proclaimed states of emergency that "threaten the life of the nation".⁶⁸ No derogation is permitted from certain obligations of

⁶³ Command responsibility is part of customary international law and conventional international law, and has been included as a mode of responsibility both in ad hoc tribunals and in the ICC. See, for example, the Statute of the International Criminal Tribunal for the Former Yugoslavia (Article 7(3)) and the Rome Statute of the International Criminal Court. See Amnesty International, *The International Criminal Court: checklist for effective implementation* (IOR 40/11/00), July 2000. See also G. Mettraux, *The Law of Command Responsibility*, OUP, 2009, p21.

⁶⁴ Rule 99 of the ICRC.

⁶⁵ See for example *Serdar Mohammed v Minister of Defence* [2014] EWHC 1369 (QB).

⁶⁶ International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*, 9 July 2004, para.104; Human Rights Committee, General Comment 31, para.11.

⁶⁷ The African Charter was domesticated in 1983 in the African Charter on Human and Peoples' Rights (ratification and enforcement) Act Cap 10 Laws of the Federation of Nigeria.

⁶⁸ However, these derogations must adhere to the principle of proportionality: they may be taken only "to

states, including 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 and unacknowledged detentions) or deviations from fundamental principles of fair trial, including the presumption of innocence. Even in states of emergency, victims of violations of human rights must have access to an effective remedy. In addition, derogations must not be inconsistent with other human rights obligations. Further, no derogations are possible under the African Charter on Human and Peoples' Rights.

NIGERIAN LAW ON DETENTION

International humanitarian law specifically prohibits arbitrary detention and does not in itself grant authority to detain in non-international armed conflict. Further, all detentions must comply with national and international human rights law. Detentions in the north-east of Nigeria therefore are lawful under international humanitarian and international human rights law only if they are expressly authorized by domestic Nigerian law and comply with international human rights law.

In relation to arbitrary detention, section 35 of the 1999 Nigerian Constitution guarantees the right to "personal liberty"; the right to remain silent; the right to the assistance of a legal practitioner or any other person of the suspect's own choice; the right to be informed of the charge against the accused; and the right to be brought before a court of law within a reasonable time.

While the Nigerian Constitution protects the right to liberty, subsection 35 (1) allows a person to be deprived of his liberty to the extent that this is to allow him or her to be brought before a court and this is "reasonably necessary to prevent his committing a criminal offence". According to subsection 4, such a person must be brought before a court within a reasonable period of time. However, subsection 7 removes this protection for individuals reasonably suspected of capital offences. So, while a person may only be arrested and detained under subsection 35 (1) (c) for the purposes of being brought to court, there is no requirement to bring them to court within a reasonable time if they are facing a capital offence. This section does not comply with international human rights law as it allows individuals to be held indefinitely if they are accused of a capital offence. It is also important to note that section 45 of the Nigerian Constitution allows derogation from the right to liberty, although it does not explain what derogation is allowed and in what circumstances.⁶⁹

Notwithstanding the flaws in section 35 of the Nigerian Constitution, it does not confer legal

the extent strictly required by the exigencies of the situation". This relates among other things to the duration, geographical coverage and material scope of the state of emergency and to the justification of each specific measure of derogation resorted to because of the emergency. Derogating measures must not involve discrimination solely on the grounds of race, colour, sex, language, religion or social origin.

⁶⁹ As many offences under the Terrorism (Prevention) Act could carry the death penalty, the Act, as interpreted in accordance with the Constitution of Nigeria, may give carte blanche powers to the military and provides virtually no protection for the fair trial guarantees Nigeria is obliged to have in place under international human rights law and standards. This interpretation would be in violation of the African Charter on Human and Peoples' Rights (which has been domesticated and is enforceable in Nigeria) and Nigeria's obligations under international human rights law generally.

authority for administrative detention and there is no such power elsewhere in the Constitution or in legislation. Section 35 does not allow purely administrative detention and requires that all those arrested and detained must be held with the intention of being brought before court in connection with a criminal offence. The Terrorism (Prevention) Act (as amended) does allow extended detention of individuals suspected of involvement in terrorism. However the Act does not allow the administrative detention of individuals without reasonable suspicion and without oversight by the courts. Prolonged pre-trial detention of civilians and alleged Boko Haram members and supporters in north-east Nigeria (many arrested and detained with no credible evidence of criminal responsibility) cannot be held to be authorized under the Act as the procedures set out in the Act have not been followed.

TERRORISM (PREVENTION) ACT (2013)

Under the Terrorism (Prevention) Act (as amended in 2013), the military has been given wide powers to arrest and detain people.⁷⁰ Section 27 allows the arrest and detention of a person “found on any premises or places or in any conveyance” by the “relevant law enforcement officer of any agency until the completion of the search or investigation under the provisions of this act.”⁷¹ This provision is overly broad and violates Nigeria’s Constitution and international human rights obligations. Subsection (1) allows the court to “grant an order for the detention of a suspect” for 90 days, which the court can renew for another 90 days, until “the conclusion of investigation and prosecution,” which appears to allow indefinite detention. Law enforcement officers are allowed under subsection (2) to “use such force as may be reasonably necessary for the exercise of the powers” in subsection (1). Under the amended act, anyone who “does, attempts or threatens any act of terrorism”, “omits to do anything that is reasonably necessary to prevent an act of terrorism”, or “assists or facilitates” an act of terrorism, is guilty of an offence. People convicted of such an offence could face the death penalty, which is the ultimate denial of human rights and a cruel, inhuman and degrading punishment.

Another potential legal basis on which the detentions may be justified in domestic law appears to be the powers granted under the Declaration of a State of Emergency. The first Declaration of a State of Emergency (January – June 2012) expressly allowed the military to detain suspects for more than a day, although this power has not been included in any subsequent declarations. This power could only have been exercised during that period and since subsequent declarations have not included the power, it would have lapsed. Further, the arbitrary power to detain beyond one day granted in the first State of Emergency Declaration appears to breach the Nigerian Constitution because it is not a proportionate response to the conflict to allow unfettered power to the military to detain with no supervision by the courts.⁷²

⁷⁰ Before the first Emergency Powers Act (2012) was passed, the military could only arrest or detain its own officers and soldiers. The 2012 Emergency Powers Act gave the military the power to detain anyone in the areas covered by the state of emergency who “is or has been involved in the preparation of instigation of acts prejudicial to public safety” and over whom for this reason the detaining authority is satisfied that “it is necessary to exercise control”. See Amnesty International, *Nigeria: trapped in the cycle of violence*, (Index: AFR 44/043/2012).

⁷¹ Terrorism (Prevention) Act, amended 2013, section 27 (3).

⁷² Section 45 of the Constitution states that, “no such measures shall be taken in pursuance of any such act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency.”

In any case any power to detain individuals without a reasonable suspicion that they are involved in a criminal offence would have to be exercised in accordance with international standards on the right to liberty. The African Charter on Human and Peoples' Rights, to which Nigeria is a party and which has been domesticated in the country, does not allow derogations from the right to liberty and Nigeria has not formally derogated from its obligations under the ICCPR. In a number of cases, the African Commission on Human and Peoples' Rights has held that Nigeria violated the African Charter on Human and Peoples' Rights by arbitrarily detaining suspects.⁷³ Indeed the African Commission has expressly held that detention under domestic laws, applicable at the time, which allowed for detention without reasonable suspicion, would be a violation of the right to liberty protected under the African Charter.⁷⁴ The African Commission has also held that in an emergency situation, the government has a continuing responsibility to secure the safety and liberty of its citizens.⁷⁵

The arbitrary mass arrests and detention of civilians and suspected members and supporters of Boko Haram with no access to the courts, usually made outside the battlefield and often based on no evidence, are contrary to Nigeria's Constitution and its international human rights obligations. The treatment of these individuals violates all fair trial guarantees. These thousands of individuals, the vast majority of whom appear to be civilians with no links to Boko Haram, are detained in life-threatening conditions, and are not brought promptly (if ever) before a judge, removing the power of the courts to assess the legality of their detention or to prevent torture and other ill-treatment. Amnesty International has also received evidence that the detainees are usually not allowed access to doctors, lawyers or their families; that their interrogations are not recorded and that the conditions and treatment in places of detention are so inhuman that thousands have died while held there.

CRIMES UNDER INTERNATIONAL LAW COMMITTED BY THE MILITARY

According to Amnesty International's analysis of the evidence that it has obtained from north-east Nigeria, the Nigerian military has committed serious violations of international humanitarian law and international human rights law; officers and commanders have committed war crimes and may have committed crimes against humanity. Amnesty International believes that individual members and commanders of the Nigerian military should be investigated for war crimes and crimes against humanity under both customary international law and the Rome Statute.

DEATHS IN CUSTODY AND EXTRAJUDICIAL EXECUTIONS AS WAR CRIMES

Under article 8 (2) (c) of the Rome Statute of the International Criminal Court, murder is a war crime when it is committed against individuals taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause. The elements of the crime are that

⁷³ See for example, *Constitutional Rights Project and Civil Liberties Organisation v. Nigeria*, Communication No. 102/93, decision adopted on 31 October 1998, para. 55 of the text as published at: www1.umn.edu/humanrts/africa/comcases/102-93.html.

⁷⁴ See *International Pen and Others v. Nigeria*, Communications Nos. 137/94, 139/94, 154/96 and 161/97, decision adopted on 31 October 1998, paras. 83-84 of the text as published at: www1.umn.edu/humanrts/africa/comcases/137-94_139-94_154-96_161-97.html.

⁷⁵ Ninth Annual Activity Report of the African Commission on Human and Peoples' Rights.

the perpetrator killed one or more people who were *hors de combat* or were civilians, medical personnel, or religious personnel taking no active part in the hostilities; the perpetrator was aware of the factual circumstances that established this status; the conduct took place in the context of and was associated with an armed conflict not of an international character; and the perpetrator was aware of factual circumstances that established the existence of an armed conflict.⁷⁶

Amnesty International has credible and extensive evidence that there have been thousands of deaths in custody of prisoners, particularly as a result of being subjected to conditions calculated to bring about their death. Prisoners died of suffocation as a result of deliberate overcrowding; starvation, malnutrition, and thirst; torture and extrajudicial executions. The organization also has evidence that the military has targeted civilians for extrajudicial executions during screenings and cordon-and-search operations, at arrest and while in detention. Individuals have been tortured to death, shot dead and killed through having their throats slit. All of these alleged killings have occurred within the context (since at least May 2013) of the non-international armed conflict in north-east Nigeria and have been committed by the military against civilians and other individuals not taking active part in the hostilities. All of these allegations, if proved, would constitute the war crime of murder under article 8 (2) (c) of the Rome Statute. All such allegations must be investigated and those against whom there is reasonable suspicion that they are criminally responsible should be brought to justice in fair trials without recourse to the death penalty.

TORTURE AS A WAR CRIME

Under article 8 (2) (c) (i)-4 of the Rome Statute of the International Criminal Court, torture constitutes a war crime when it is committed against protected persons under international humanitarian law, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause. The elements of the crime are that the perpetrator inflicted severe physical or mental pain or suffering upon one or more people; the perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind; the victims were *hors de combat* or were civilians, medical personnel or religious personnel taking no active part in the hostilities, the perpetrator was aware of the factual circumstances that established this status, the conduct took place in the context of and was associated with an armed conflict not of an international character; and the perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Amnesty International has received consistent reports as well as video evidence of torture and other forms of ill-treatment by the military during and after mass arrests. A large number of

⁷⁶ The International Criminal Tribunal for the former Yugoslavia (ICTY) has defined murder as a war crime in *Vasiljevic*, (Trial Chamber), November 29, 2002, para. 205 as follows, "The elements of the definition of 'murder' under customary international law are as follows: 1. The victim is dead. 2. The death was caused by an act or omission of the accused, or of person or persons for whose acts or omissions the accused bears criminal responsibility. 3. That act was done, or that omission was made, by the accused, or a person or persons for whose acts or omissions he bears criminal responsibility, with an intention: to kill, or to inflict grievous bodily harm, or to inflict serious injury, in the reasonable knowledge that such act or omission was likely to cause death." See also *Krnjelac*, (Trial Chamber), March 15, 2002, para. 324.

those arrested appear to have been subjected to torture; in particular, suspects are usually beaten during “screening” operations, during arrests and following arrests while in detention. Amnesty International has received 90 videos which show soldiers and members of the Civilian JTF beating suspects, making them lie down and walking on their backs, threatening them, humiliating them, tying their arms and making them roll in the mud, and in one case attempting to drown a suspect in a river. Several videos show soldiers loading detainees onto a military truck as if they are sand bags. Virtually all detainees are held in extremely poor conditions of detention that amount at a minimum to ill-treatment and may amount to torture, especially considering the large number of prisoners who have died from suffocation, starvation and illness. All vital safeguards against torture such as access to lawyers, relatives and doctors and bringing suspects before a judge are routinely flouted by the military. The torture and other ill-treatment of thousands of detainees by the Nigerian military are war crimes and officers and commanders in the Nigerian military who are potentially criminally responsible for these crimes must be investigated and brought to justice.

CRIMES AGAINST HUMANITY

Crimes against humanity are prohibited acts committed as part of a widespread or systematic attack directed against a civilian population as part of a government or organizational policy.⁷⁷ The contextual elements of crimes against humanity require that each individual act be perpetrated in the context of a widespread or systematic attack directed against a civilian population and with knowledge of the attack. Each element of these requirements must be proved before any accused person can be convicted of crimes against humanity. Amnesty International is of the view that these contextual elements may be met and that further investigation is required to determine whether crimes against humanity have been committed.

The evidence that Amnesty International has received from north-east Nigeria is that there have been widespread, as well as systematic, arrests, detentions and extrajudicial executions of young men and boys by the military in areas under Nigerian government control, often after Boko Haram attacks.⁷⁸ Thousands of those detained have died in conditions of detention that were calculated to deny them the necessities of life. The evidence obtained by Amnesty International suggests that those arrested were civilians who were not taking part in hostilities, were not carrying arms, and were not wearing uniforms, insignia or other

⁷⁷ Article 7 of the Rome Statute of the International Criminal Court, to which Nigeria is a party, defines crimes against humanity as any of the following acts when knowingly committed as part of a widespread or systematic attack directed against any civilian population: murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law; enforced disappearance of persons; the crime of apartheid; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

⁷⁸ The Nigerian military arrested and killed thousands of young men and boys across north east Nigeria in 2012, 2013 and 2014, during so called cordon-and-search or screening operations following Boko Haram attacks. Thousands died in arbitrary detention after being held in conditions of detention calculated to deny them the necessities of life.

indications that they were members of Boko Haram.⁷⁹ Before early 2013 the situation in north-east Nigeria cannot be construed as constituting a non-international armed conflict, which means that all those arrested, detained or extrajudicially executed were civilians. The evidence that the organization has received also indicates that between July 2013 and July 2014 Boko Haram was not based in the areas from which individuals were arrested and extrajudicially executed since the armed group had been forced out in military offensives in July 2013,⁸⁰ meaning that the population was predominantly civilian.⁸¹ The information also indicates that the pattern of widespread as well as systematic arrests, detentions and extrajudicial executions was not continued by the military in areas under Boko Haram control in the later part of 2014 and early 2015 (as there were no raids into areas controlled by Boko Haram). It is reasonable to conclude that objectively the majority⁸² of those targeted by the Nigerian military were either civilians with no links to Boko Haram or at the most supporters and informants of Boko Haram and a small minority of Boko Haram fighters visiting their families.⁸³

However, more difficult questions arise regarding whether the arrests, detentions, torture and other ill-treatment, and extrajudicial executions were deliberately directed against the civilian population in accordance with a governmental policy. Amnesty International believes that in making such a determination, consideration should be given to the evidence that there was a widespread as well as systematic targeting of young men and boys; that the victims were not investigated, charged or granted due process rights; that thousands died through starvation, asphyxiation and thirst or were extrajudicially executed; that many who died in military custody were arrested in 2011 and 2012 before the situation escalated into a non-international armed conflict; that orders to annihilate Boko Haram did not make a clear distinction between Boko Haram and civilian supporters; and that attacks continued despite mounting evidence (at least after the Giwa prison escape) that the majority of victims were not members of Boko Haram.⁸⁴

⁷⁹ See *Kordic & Cerkez*, 17 December 2004, ICTY Judgment, AC, para 50 – 50, : members of armed forces (other than medical personnel and chaplains) and members of militias or volunteer corps forming part of such armed forces are ‘combatants’ and cannot claim civilian status. Neither can members of organized resistance groups, provided that they are commanded by a person responsible for his subordinates, that they have a fixed distinctive sign recognizable at a distance, that they carry arms openly, and that they conduct their operations in accordance with the laws and customs of war.

⁸⁰ In 2014 the vast majority of people living in government controlled north-east Nigeria were civilians. After mid-2013 Boko Haram fighters were forced to leave major towns and cities in north-east Nigeria. The group retreated from these locations and established their main camp in the Sambisa forest. They also retreated to small remote communities without a military or police presence.

⁸¹ The civilian nature of those arrested is corroborated by the behaviour of released detainees from the Giwa detention facility when it was attacked by Boko Haram in 2014. Boko Haram gave the detainees the option to either leave or join them; the vast majority fled Boko Haram before being apprehended by the military and extrajudicially executed.

⁸² See *Galic*, 30 November 2006, Judgment, AC–136. “[T]he presence of individual combatants within the population attacked does not necessarily change the fact that the ultimate character of the population remains, for legal purposes, a civilian one.”

⁸³ See *Galic*, 30 November 2006, Judgment, AC –136, “[I]n wartime conditions it is inevitable that individuals belonging to the category of combatants become intermingled with the civilian population, for example, soldiers on leave visiting their families. However, provided that these are not regular units with fairly large numbers, this does not in any way change the civilian character of a population.”

⁸⁴ See for example Archbold, *International Criminal Courts*, Dixon and Khan (2003), at 12-1. “The policy

Individual officers and commanders in the Nigerian military should be investigated for a number of crimes against humanity including imprisonment, extermination, murder, enforced disappearances and torture.

JURISDICTION OVER WAR CRIMES AND CRIMES AGAINST HUMANITY

International law imposes the obligation to investigate and prosecute alleged perpetrators of crimes under international law and serious violations and abuses of human rights.⁸⁵ These crimes include crimes against humanity and war crimes referenced in this report. Nigeria has the obligation under international law to ensure that, where sufficient evidence exists, individuals suspected of committing crimes under international law are prosecuted in fair trials without recourse to the death penalty. Nigeria must also ensure that effective remedies are put in place and that victims are provided with fair and just reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁸⁶

Where the Nigerian state is unable or unwilling genuinely to prosecute those suspected of criminal responsibility for crimes under international law, there are other avenues for bringing perpetrators to justice. Nigeria ratified the Rome Statute of the International Criminal Court on 27 September 2001. Therefore the International Criminal Court has jurisdiction over crimes (as prescribed by the Rome Statute) committed on Nigerian territory or by Nigerian nationals from 1 July 2002 onwards. State parties to the Rome Statute should take measures at national level to ensure that those suspected of crimes under the Statute, including crimes against humanity and war crimes, are effectively investigated and prosecuted. This generally requires legislation to ensure that these crimes are also crimes under national law. However, no such legislation has been passed to fulfil Nigeria's obligations. In July 2012, a bill to domesticate the Rome Statute⁸⁷ was sent to the National Assembly. The bill is still pending. The bill attempts to comply with Nigeria's obligations to domesticate and implement the Rome Statute. However, Amnesty International is concerned that, among other things, the bill would allow the imposition of the death penalty for genocide, war crimes and crimes against humanity; that the draft legislation excludes retrospective jurisdiction for crimes under international law; that the exclusion of the defence of superior orders is drafted in ambiguous terms; and that excessive leeway is granted to the Attorney General to refuse to

need not be formalised, and can be deduced from the manner and circumstances in which the acts occur....In essence, the policy element only requires that the acts of individuals alone, which are isolated, un-coordinated, and haphazard, be excluded." In support see ICTY *Prosecutor v. Tadic*, Judgment, ICTY TC, 7 May 1997, para. 653 -"a policy need not be formalized and can be deduced from the way in which the acts occur. Notably, if the acts occur on a widespread or systematic basis that demonstrates a policy to commit those acts, whether formalized or not".

⁸⁵ International humanitarian law contains a duty to prosecute war crimes (ICRC Customary IHL Study, Rules 157 and 158). See also the International Covenant on Civil and Political Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the African Charter on Human and Peoples' Rights for the due diligence obligations to investigate and prosecute with respect to human right violations. See also Amnesty International, *United Kingdom: The Pinochet case - universal jurisdiction and absence of immunity for crimes against humanity*, (Index: EUR 45/01/99), January 1999.

⁸⁶ United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005.

⁸⁷ A Bill for an Act to provide for the Enforcement and Punishment of Crimes against Humanity, War Crimes, Genocide and Related Offences, and to Give Effect to Certain Provisions of the Rome Statute of the International Criminal Court in Nigeria.

cooperate with the International Criminal Court. The organization therefore believes that the legislation needs redrafting to bring it into compliance with Nigeria's obligations under the Rome Statute and international law.

In addition war crimes and crimes against humanity are subject to universal jurisdiction, which means those suspected of perpetrating these crimes may be tried in any country they enter or are located in, if that country allows the exercise of universal jurisdiction in its domestic law.⁸⁸



Nigerian soldiers are about to extrajudicially execute a recaptured detainee, after the Giwa Barracks attack on 14 March 2014.
©Private.

⁸⁸ See for example ICJ, *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment, I.C.J. Reports 2002, p. 3, where the majority of the court confirmed the right of all states to exercise universal jurisdiction.

WAR CRIMES BY THE MILITARY

In the course of security operations against Boko Haram in north-east Nigeria, Nigerian military forces have extrajudicially executed more than 1,200 people; they have arbitrarily arrested at least 20,000 people, mostly young men and boys; they have committed countless acts of torture; hundreds, if not thousands, of Nigerians have become victims of enforced disappearance; and at least 7,000 people have died in military detention as a result of starvation, extreme overcrowding and denial of medical assistance.

Amnesty International's findings, presented in detail below, show that these acts were committed deliberately or recklessly and thus constitute war crimes in the context of a non-international armed conflict. Commanders who gave orders or directly oversaw the commission of these crimes as well as military personnel who carried them out bear individual responsibility for these acts.

Based on interviews with high-ranking military officers and analysis of military documents, Amnesty International believes that the top military commanders, including those who have held the positions of the Chief of Defence Staff and the Chief of Army Staff from 2010 to date, had knowledge of the ongoing violations and failed to take measures to stop or prevent them, and so should be investigated for their command responsibility for these crimes.

The names of the military officers and specific evidence suggesting their individual or command responsibility for these crimes are presented below (see page 92).

EXTRAJUDICIAL EXECUTIONS

Amnesty International has documented 27 incidents when the Nigerian military extrajudicially executed civilians in 2013 and 2014. In 14 of these incidents, Nigerian military forces, sometimes in collaboration with Civilian JTF members, executed a large number of victims, at times dozens or even hundreds in one day.

The precise number of extrajudicial executions is impossible to verify due to the lack of records, cover-up efforts by the military, and the difficulty of reaching witnesses in the areas where the crimes were committed.

The cases set out below document the killings of more than 1200 people in Borno, Yobe, and Adamawa states. The actual number of killings is likely to be significantly higher: scores of witnesses interviewed by Amnesty International – including relatives of victims, eyewitnesses, human rights defenders, local officials, lawyers and military officers – witnessed, recorded or were aware of extrajudicial executions but were not able to provide sufficient details for the cases to be included in this report.

In particular, after the Nigerian military recaptured territory in 2015, Amnesty International received an increased number of reports of extrajudicial executions of suspected Boko Haram members. In Bama, for example, after the military took over in March 2015, several Civilian JTF members and residents told Amnesty International that the military shot and killed

everyone who was not cleared by the Civilian JTF as a resident.⁸⁹ A senior military source who monitored the developments told Amnesty International: “Once the military recaptures a town, no young man should stay around. Because they will kill them straight away.”⁹⁰ This needs to be further investigated.

Hundreds, if not thousands, of people arrested by the Nigerian military have been missing for months and even years. Some are probably held in unauthorized, unacknowledged detention. Many others are feared dead. Amnesty International’s research shows that extrajudicial executions of Boko Haram suspects were a routine practice for the Nigerian military. The killing of more than 640 detainees who fled following the Boko Haram attack on Giwa barracks in Maiduguri on 14 March 2014 has been widely exposed in the media while the number of victims was smaller in other cases.

Cases documented below demonstrate that the military killed people after they had been captured and presented no danger. Many were shot dead inside detention facilities, while others were either shot or had their throats cut right after being captured during cordon-and-search operations.



Blindfolded corpses brought to a mortuary in Maiduguri, May 2015. © Private.

⁸⁹ Amnesty International interviews, March and April 2015.

⁹⁰ Amnesty International interview, May 2015.



Bodies of recaptured detainees. Left: Former detainees, killed by the military, after they were recaptured. Middle and left: Corpses deposited at the mortuary. © Private.

In a few cases, the bodies of killed detainees were returned to their families, usually dumped near their home or on the outskirts of the village. In most cases the families were never officially informed of the deaths of their relatives. The military either dumped the bodies at the mortuaries or buried them in mass graves. Some families found out their relatives had been executed from released detainees or eyewitnesses. Many families have never found out what happened to their loved ones.

Internal military reports analysed by Amnesty International show that field commanders regularly informed their headquarters about the deaths of captured suspects, sometimes claiming they were “killed in action” or while trying to escape, and in other cases providing no explanation whatsoever.

To Amnesty International’s best knowledge none of the cases, including the mass executions in Giwa, have been meaningfully investigated and none of the perpetrators have been brought to justice.

EXTRAJUDICIAL EXECUTION OF AT LEAST 640 RECAPTURED DETAINEES FROM GIWA BARRACKS, 14 MARCH 2014

One of the most horrific mass executions by the military in recent years happened on 14 March 2014 in Maiduguri, Borno state. In the aftermath of a Boko Haram attack on the military detention facility at Giwa barracks, the military killed at least 640 men and boys, most of them recaptured detainees.

Based on dozens of interviews with residents, lawyers, human rights defenders and hospital staff in various locations in and around Maiduguri, in March 2014 Amnesty International published a detailed report documenting the extrajudicial executions of at least 622 men and boys who had fled from Giwa barracks.⁹¹ The report also included satellite imagery analysis that confirmed the existence of several mass graves that appeared in the area shortly after the executions.

⁹¹ Amnesty International, *Nigeria: more than 1,500 killed in armed conflict in north-eastern Nigeria in early 2014*, March 2014.

THE GIWA BARRACKS ATTACK

Amnesty International interviewed nine former detainees who escaped or stayed behind after the barracks were attacked. They all told Amnesty International that the day before the attacks, soldiers moved their wives and children out.

Hussaini Kallo, a 31-year-old grain seller who was detained in Giwa for 18 months, told Amnesty International: “On that Thursday, soldiers packed their properties and removed their wives and children. In the evening they removed their armoured tankers. Only three soldiers were left... The Boko Haram came in the morning and told us to follow them and take weapons. I said ‘no, I don’t know how to shoot, and I haven’t seen my father or mother for almost two years so I cannot join you.’ They loaded the weapons on their vehicles.”⁹²

A video released by Boko Haram⁹³ shows gunmen entering the Giwa barracks, setting ablaze scores of vehicles in the compound. They met no resistance.⁹⁴ Hundreds of frail-looking people, including women and children, ran away from the barracks, most on bare feet. Former detainees who survived the mass execution reported that after their cells were opened by Boko Haram fighters, the detainees were given the option of either joining Boko Haram or going home. Hundreds of the detainees decided to go home.

After the Boko Haram fighters left, together with their freed members and any other detainees who chose to join them, some residents in Maiduguri began to help the escaping detainees. They gave them clothes, water and food and offered a place to hide. From 9am onwards, soldiers and local Civilian JTF members started hunting down the escaped detainees. They conducted house-to-house searches and threatened to arrest any resident who was hiding a former detainee. Many residents told Amnesty International that they felt that they had no choice but to hand over detainees who were sheltering in their homes. Most rearrested detainees were extrajudicially executed by soldiers that day, in some cases with the help of Civilian JTF members.



Hundreds of detainees are freed after Boko Haram attack Giwa barracks in Maiduguri, Borno state on 14 March 2014. © Private.

⁹² Amnesty International interview, March 2015. Hussaini was arrested on 26 November 2012 at a military checkpoint on the Gwange bridge, Maiduguri, along with 19 others. A list of those arrested with him is on file with Amnesty International. Hussaini was the only one who survived; all others had died of starvation and illness.

⁹³ See: <https://www.youtube.com/watch?v=Tjw5ITnClBo>

⁹⁴ Amnesty International has received various reports suggesting that the military knew in advance that Boko Haram would attack and that they and their families left the barracks. Amnesty International was not able to verify this.



Execution of recaptured detainees by Nigerian soldiers, outside Maiduguri, 14 March 2014. © Private.

Since then, Amnesty International has received additional information about the execution of at least 18 other men who escaped from Giwa.

During a fact-finding mission to Borno state in July 2014, Amnesty International obtained 12 videos showing the 14 March attack and executions. Our experts have verified and authenticated the videos.⁹⁵

One of the videos, apparently taken by a member of the Civilian JTF with the military commander's camera, shows 16 young men and boys sitting on the ground in a line. One by one, they are called forward and told by the military commander to lie down in front of a pit. Two or three men assist in holding the detainees. Armed soldiers and Civilian JTF members then cut the men's throats with a blade and dump them into an open mass grave. None of the men are tied and they seem to accept their fate without resistance, but the presence of armed soldiers may have prevented them from trying to escape. They may also have been in shock. The video shows five of the men being killed in this way. The fate of the remaining detainees is not shown on the video, but eyewitness accounts confirmed that nine of them had their throats cut while the others were shot dead.⁹⁶

A second video featuring some of the same perpetrators, taken earlier that day at the same location,⁹⁷ shows two other detainees digging a grave, guarded by armed men in uniforms. The soldier who, according to witness testimony, is the commander of the group then tells one of the detainees to lie down in front of the pit. Men in civilian clothes who appear to be Civilian JTF members hold his legs and head, while the commander puts his right foot on the

⁹⁵ The verification process included corroboration of the events shown in the video by eyewitness testimony and other information from reliable sources on the ground, including three military officials. Amnesty International independently interviewed 13 people who had detailed information about the videos. Amnesty International also conducted a content analysis of the videos, looking at specific features depicted in it as well as analysing the metadata. The analysis included image enhancement techniques and reviewing the video in slow motion, using VLC and Tracker software. The audio was also extracted from the videos, which can be used for further analysis and review, such as analysis of accents and linguistic traits. The detailed analysis is on file with Amnesty International.

⁹⁶ Amnesty International interviews, August 2014.

⁹⁷ Amnesty International was able to verify the time and location based on eyewitness accounts and analysis of the metadata in the video.



Execution of recaptured detainees by Nigerian soldiers, outside Maiduguri, 14 March 2014. © Private.

man's side, raises his knife, kisses it, shouts "Die hard Commando" and cuts the throat of the restrained young man. All the other soldiers and Civilian JTF members shout "Yes oga [boss], kill him".⁹⁸

All the men killed had been rearrested after they escaped from Giwa Barracks. The military took them to Gidari Polo, from where the military loaded them into vehicles and took them to the outskirts of Maiduguri, along the road between Gidari and Mule. Two military sources, interviewed independently, told Amnesty International that the soldiers in the videos were members of 81 Battalion, based in Borno state.⁹⁹ The ID number on one of the automatic guns is clearly visible: 81BN/SP/407. According to military sources, this rifle belongs to the Support Company of the 81 Battalion and has not been reported missing.¹⁰⁰ Several of the armed men are wearing military uniforms, one of which has the words "Borno State Operation Flush" emblazoned on the front.¹⁰¹

Two witnesses interviewed by Amnesty International in August 2014 identified one of the 18 executed men as their relative, 25-year-old Jidu Hassan (not his real name).¹⁰² In July 2014 Amnesty International interviewed his mother, who at that time, was not aware of his death. She said that in July 2011, soldiers arrested Jidu, along with 40 other men, following a bomb blast in their home town of Maiduguri. The mother did not receive any official information about Jidu's fate, whereabouts, or charges against him, but a year after his arrest she heard from a construction worker from Giwa barracks that Jidu was being held there. Jidu apparently escaped from the barracks along with other detainees during the March 14 attack, but was then recaptured. According to his mother, the fate of the 40 other men arrested with Jidu remains unknown. None of them have returned home and their families fear they might have died in custody or been executed in the aftermath of the Giwa barracks attack.

⁹⁸ The full videos are on file with Amnesty International.

⁹⁹ Amnesty International interviews, July and August 2014.

¹⁰⁰ Amnesty International interviews, August 2014.

¹⁰¹ Operation Flush was a joint task force comprising of military and police personnel set up in 2008 by the Borno State Government to tackle the high crime rates in the state.

¹⁰² Amnesty International interviews August 2014 with his cousin and uncle, who viewed the video and identified Hassan.

EXECUTION OF 64 MEN IN DAMATURU, 18 APRIL 2013

On 18 April 2013, 64 detainees were killed in Presidential Lodge (Guardroom) detention centre in Damaturu, Yobe state.¹⁰³ According to a military source who was posted in this area at the time, the men had been detained for three to four months. The soldiers took them out of their cells in the evening and shot all of them at close range in the bush near Maiduguri Road. The military source told Amnesty International that the detainees were killed by soldiers who had returned from an operation where they had lost two of their colleagues in battle. He said the killing was in revenge for the death of those two soldiers, one of whom was a corporal.¹⁰⁴ The 64 detainees, according to the military source, were selected randomly from two different cells.

The corpses were transported to the General Sani Abacha Hospital mortuary in Damaturu, Yobe state. Amnesty International spoke to hospital staff, who confirmed that soldiers from the JTF base in Damaturu deposited bodies with gunshot wounds at the mortuary on 19 April and ordered the mortuary staff to bury the corpses.¹⁰⁵ Amnesty International received six photographs of the corpses after soldiers deposited them at the mortuary. The pictures show bodies with bullet wounds, covered in blood.¹⁰⁶

The hospital staff informed the relatives of the victims that they could identify. The others were buried in a mass grave on the outskirts of Damaturu.¹⁰⁷

A senior military source told Amnesty International in confidence that the official explanation



The bodies of 64 detainees left at the mortuary of General Sani Abacha Hospital in Damaturu, Yobe state on 19 April 2013. The previous evening, soldiers took them from their cells at Presidential Lodge detention facility, known as 'Guardroom' and shot them. A military source told Amnesty International that they were executed in revenge for the death of two soldiers in combat earlier that day. © Private.

¹⁰³ Amnesty International has a list with the names of those who died.

¹⁰⁴ Amnesty International interview, July 2013.

¹⁰⁵ Amnesty International interview, July 2013.

¹⁰⁶ The six pictures are on file with Amnesty International.

¹⁰⁷ Amnesty International interview, July 2013.

for these deaths was that the bodies were those of Boko Haram members who had been killed in a shoot-out. The source has confidentially given Amnesty International a handwritten list from the detention centre containing the names of the detainees who were killed on that day.¹⁰⁸

Former detainees held in Sector Alpha and the Presidential Lodge (Guardroom) told Amnesty International that soldiers frequently took people out of their cells to kill them.¹⁰⁹ One former detainee said: "...nearly on a daily basis, they [soldiers] will come and collect some people. At times two, at other times even five, and those people will never return to the cell. We were told by some of the soldiers that we had no use to the society, so we would all be wasted [killed], one after the other. So whenever the soldiers come to collect people from the cell, we know their own is finished. We will pray for our own lives."¹¹⁰

EXTRAJUDICIAL EXECUTION OF 35 MEN IN BAMA, 29 JULY 2013

In Bama, a town 70km south-east of Maiduguri, Nigerian soldiers detained 35 men after a screening operation on 23 July 2013. They killed all of them less than a week later.

Residents of Bama told Amnesty International that on 23 July a large number of Nigerian soldiers and Civilian JTF from Maiduguri arrived in the town at about 11am and gathered a large group of men behind the central market.¹¹¹ According to eyewitnesses, the men were told to take off their clothes. Wearing only their trousers, they were lined up and, one by one, told to close their eyes as they were pushed in front of a man seated in a vehicle. The man then indicated left or right. Thirty-five men were sent to the left, and the remaining 300 or so were sent to the right.¹¹²

Eyewitnesses told Amnesty International that the soldiers and members of the Civilian JTF then ordered the 35 men, whom they accused of being Boko Haram members, to lie down side by side on the ground, and started beating them with sticks and machetes. One eyewitness told Amnesty International that he heard one of the military officials shouting: "You have to beat, even kill these; they are Boko Haram."¹¹³ The men, eyewitnesses said, were then loaded into a single military truck and taken away.

¹⁰⁸ The list is on file with Amnesty International.

¹⁰⁹ Amnesty International interviewed seven former detainees of Sector Alpha and Presidential Lodge.

¹¹⁰ Amnesty International interview, July 2013.

¹¹¹ Amnesty International interviewed five eyewitnesses and relatives in July 2014. They showed Amnesty International the video taken during this screening operation and identified their relatives who were later taken away. Amnesty International has analysed the metadata of this video and two other videos later obtained. The metadata confirms it was taken on 23 July 2013. Detailed analysis of the videos confirms they were taken at a junction in central Bama. Both videos were filmed by men in civilian clothes; they can be seen as they film each other at one point.

¹¹² Amnesty International interview, July 2014.

¹¹³ Amnesty International interview, July 2014.



A 'screening' operation by the Nigerian military and Civilian Joint Task Force on 23 July 2013 in Bama town, Nigeria. More than 300 men were passed in front of a hidden informant. Up to 35 men were arrested on suspicion of being Boko Haram members. On 29 July 2013 military personnel took the men out of the barracks in Bama and brought them to their communities, where the soldiers shot them dead. © Private

Video footage from the operation recorded on 23 July and later obtained by Amnesty International corroborates these accounts. The two videos clearly show the faces of the soldiers and Civilian JTF members who took part in this operation. They also show the victims, lying on the ground, being beaten by soldiers and Civilian JTF members.¹¹⁴ The video shows the arrival of a military truck and car,¹¹⁵ coming to collect the detainees. It then shows Civilian JTF members ruthlessly beating the detainees as they climb into the truck.

Another video taken later that day in Bama shows approximately 10 of the arrested men sitting on the ground, outside Kuru Mohammad military barracks, while soldiers and Civilian JTF members continue to beat them.¹¹⁶ Two men can be seen lying on the ground, apparently unconscious or dead, with blood pouring out of one man's head. A third video, also taken near the barracks, shows another 16 men seated. A little further away lies a man, seemingly unconscious or dead. At least 50 Civilian JTF members and bystanders watch four soldiers beat and kick a man who appears to be unconscious; they roll him through a large puddle of water and as he regains consciousness, they continue to beat him.¹¹⁷

Several days later, on the afternoon of 29 July, military personnel took the men out of the barracks and brought them to their communities, where they shot them dead, several at a time, before dumping their corpses.¹¹⁸ One local resident told Amnesty International that gunshots rang out from around 2pm into the evening as soldiers shot and deposited the bodies in different places around the town.¹¹⁹

¹¹⁴ Video is on file with Amnesty International.

¹¹⁵ In the video, the number '72' can be clearly seen on the military car.

¹¹⁶ Amnesty International analysed the metadata of the video, which shows that it was taken on 23 July. A detailed review of the video shows some of the same individuals and vans as appeared in the video of the screening. Eyewitnesses recognised the location of the video.

¹¹⁷ Videos on file with Amnesty International.

¹¹⁸ The eyewitnesses and relatives of the victims Amnesty International interviewed did not see the military killing the men, but they were all told by several people who saw the killing what had happened.

¹¹⁹ Amnesty International interviews, July 2014.



A 'screening' operation by the Nigerian military and Civilian Joint Task Force on 23 July 2013 in Bama town, Nigeria. More than 300 men were passed in front of a hidden informant. Up to 35 men were arrested on suspicion of being Boko Haram members. On 29 July 2013 military personnel took the men out of the barracks in Bama and brought them to their communities, where the soldiers shot them dead. © Private

Babangida Sule (not his real name), a 54-year-old man from Bama, told Amnesty International that his son, 29-year-old Ibrahim Sule (not his real name), was among the 35 men taken away by the military on 23 July. The father, who was in Maiduguri at the time of arrest, said that on 26 July he went to the Kuru Mohammad military barracks in Bama and saw his son there. He said: "They brought him out. There were two of them, he was chained to another. I saw my son. They brought him from the cell. They started asking him questions, told him to sit down. I spent some time in the barracks. They said they would release him after screening."¹²⁰

On Monday afternoon, after prayer, a woman from the Tandari area of Bama came to warn him that she thought she had seen the army with his son. Babangida said: "She told me 'the army has brought these children, they are harassing them, go and see maybe your son is there'. When I went there, I saw people, I took my ID. Some people had put coffin [mats to cover the faces of the dead]. I saw my son's trousers and then looked at his face." Ibrahim had gunshots in his ribs and head. In total there were eight corpses. He took his son's body home for burial.¹²¹

Shettima Ali (not his real name), a 28-year-old father of two, was also among the 35 men detained by the military. His father went to look for him at Bama barracks on 24 July but he was not allowed inside and the soldiers chased him away, saying next time they would kill him.¹²²

On 29 July, alerted by people from the community, Shettima's cousin found Shettima's body near Bama bridge, with a bullet hole in his chest. There were five corpses there. The cousin told Amnesty International that all victims had bullet holes in the chest and were dressed only in their trousers. He said that relatives of the victims could not obtain death certificates

¹²⁰ Amnesty International interview, July 2014

¹²¹ Amnesty International interview, July 2014.

¹²² Amnesty International interview, July 2014.

and just buried the bodies.¹²³ Eyewitnesses confirmed to Amnesty International that in different locations around town local residents recovered a total of 35 corpses of men who had been arrested during the operation, all bearing marks of execution.¹²⁴

EXTRAJUDICIAL EXECUTION OF 12 MEN IN CHIKIDE, 18 JUNE 2014

On 18 June 2014, Nigerian soldiers detained nine men from the village of Chikide, Gwoza Local Government Area about 105 km from Maiduguri, and three men from the nearby village of Ngoshe. The bodies of all 12, with marks that suggested that they had been killed, were discovered the following day.¹²⁵

Eyewitnesses from Chikide told Amnesty International that on 18 June soldiers, whom they recognised as being based in nearby Kirawa barracks, came to the local mosque as people were finishing afternoon prayers. The witnesses described how after prayers the soldiers separated out nine men aged between 22 and 40 from the group. One witness said: "The army had come with two people in uniforms whose faces were covered. There were no ID numbers on the chest of the uniforms. They started pointing out people and selected nine youths."¹²⁶ The soldiers told the older men to go home. They then loaded the young men into military vehicles and drove away.

The following day, women from the village wanted to take food to the military barracks but someone told them that there were dead bodies in the forest by neighbouring Bokko village.¹²⁷ A group of men and women from Chikide went to look. An eyewitness told Amnesty International what he saw: "Most of them had their hands tied behind their back. Some had wounds on their face like they were beaten, some had cuts in their stomach like their stomach has been cut with knives. All of them no clothing, only one with clothes, the rest in short knickers. All of them had bullet wounds in different places. They were in one row."¹²⁸

Next to the bodies of the nine men from Chikide, the villagers also found three other bodies. They told Amnesty International that these men were from neighbouring Ngoshe.¹²⁹ All the men were buried the same day.

A military source who monitors the military operations in the area confirmed the incident to Amnesty International. He said the soldiers, who were part of Team A Mobile Brigade, based in Kirawa, had claimed the men were Boko Haram members.¹³⁰

EXTRAJUDICIAL EXECUTION OF FOUR MEN IN KONDUGA, 17 SEPTEMBER 2014

On 17 September 2014, the army repelled a Boko Haram attack on the military barracks in

¹²³ Amnesty International interview, July 2014.

¹²⁴ Amnesty International interviews, July 2014.

¹²⁵ Amnesty International gathered five testimonies, including from two witnesses who were present in Chikide at the time of the arrest and when the corpses were found, and one military source with detailed knowledge about the operations in the area.

¹²⁶ Amnesty International interview, June 2014.

¹²⁷ Amnesty International interview, June 2014.

¹²⁸ Amnesty International has a list with the names and ages of the men. Interviews June and July 2014.

¹²⁹ Amnesty International interviews, June and July 2014.

¹³⁰ Amnesty International interview, June 2014.

Konduga. Many soldiers and Boko Haram fighters died. The army captured five Boko Haram suspects, one of whom they identified as the Boko Haram commander Abubakar Shekau.¹³¹ He, along with three of the other suspects, died in custody. Video footage of the interrogation and photos showing the corpse of the alleged Boko Haram commander were posted online.¹³²

After Abubakar Shekau appeared in a new video statement, it became clear that the dead captive was someone else.¹³³ A military source confirmed to Amnesty International that the person that had been killed was not Shekau.¹³⁴

A Civilian JTF member from Konduga who witnessed the arrest of these men told Amnesty International that after soldiers had interrogated the man thought to be Shekau, the Officer in Charge ordered the other soldiers to break his legs and take him to the soldiers' lodge. The witness claims that once the Officer in Charge left, the junior officers shot and killed four of the five suspects, including the alleged Boko Haram commander.¹³⁵ It is unclear what happened to the fifth man.

The witness told Amnesty International that the detainees posed no threat and were murdered by soldiers; the video evidence confirms his statement.¹³⁶

EXTRAJUDICIAL EXECUTION OF 15 MEN AND BOYS IN POTISKUM, 5 NOVEMBER 2014

On 5 November 2014, early in the morning, soldiers and Mobile Police (MOPOL) officers in two flatbed trucks drove to Dogo Tebo ward, in Potiskum, Yobe state.

Residents told Amnesty International that the soldiers and MOPOL officers went into several houses and brought out 16 men and boys, aged between 13 and 40, and drove them away. Abubakar Doho (not his real name) told Amnesty International that they were looking for a specific individual who was not at home, and that the men might have been arrested in his place.¹³⁷ He said the men were taken to a police station and 15 of them were then transferred to the military barracks in the Government Reserved Area (GRA) of Potiskum. Another eyewitness to the arrest, who lived in the same street as the men arrested, confirmed the arrest and said that later in the afternoon, the police returned to arrest him and three others; they were released later that evening.¹³⁸

Residents told Amnesty International that they heard gunshots at around 10pm in the evening. The next morning, Abubakar and other residents and relatives of the men went to

¹³¹ On 24 September Defence Headquarters tweeted "Mohammed Bashir who has been acting or posing on videos as the deceased Shekau, the eccentric character died." They also released a statement on 24 September confirming his death and showing pictures of the dead body: www.defenceinfo.mil.ng/current-developments-in-counter-terrorism-campaign/.

¹³² See www.youtube.com/watch?v=dGbC03UTGhw

¹³³ The Nigerian military in a statement released on 2 October, insisted that "the individual who was appearing in video and claiming to be the leader of the terrorist group was killed in the Konduga battle in September." See: defenceinfo.mil.ng/the-purported-shekau-video-in-circulation-2/

¹³⁴ Amnesty International interview, October 2014.

¹³⁵ Amnesty International interview, October 2014.

¹³⁶ Amnesty International interview, October 2014.

¹³⁷ Amnesty International interview, November 2014.

¹³⁸ Amnesty International interview, November 2014.

the mortuary in Potiskum General Hospital because they feared the men had been killed. They saw the dead bodies of 15 of the young men detained on 5 November.

Abubakar Doho described the corpses to Amnesty International: "I saw the 15 bodies. They shot them. Some in the head, some in the stomach and some in the chest. They beat them thoroughly and tied them with rope. The rope had been removed, but I saw the mark around the hands. There were bruises on most of the boys."¹³⁹ No autopsy was carried out and the relatives took the bodies with them for burial. A military source with knowledge of the operations in the north-east confirmed that the military had shot and killed the men.¹⁴⁰

EXTRAJUDICIAL EXECUTION OF UMAR ABDULLAHI, SEPTEMBER 2013

On the afternoon of 25 September 2013, about eight JTF soldiers from Potiskum conducted a house-to-house search operation in Yindiski Ward, Potiskum, Yobe state. The soldiers arrived in a Hilux vehicle and arrested 11 men between the ages of 25 and 55.

One of the men arrested, Mallam Abdullahi (not his real name), told Amnesty International that the soldiers executed his 29-year-old son Umar Abdullahi (not his real name) during the raid. Mallam said he did not know why his son was chosen and killed by the soldiers. He said the soldiers had come to his house and arrested the only men in the house; him and his son. He described how the soldiers shouted at them and pushed them into their vehicle. He saw other men in the vehicle: some of them had blood on their foreheads. He was able to identify two from the street where he lived. He said that they were sitting in the vehicle when one of the soldiers came and started asking questions.

He said: "He [the soldier] asked my son what he does for a living. My son told them he had just finished his college and was getting ready to marry and they should allow him to show them his certificates. One of the soldiers asked him to come out of the vehicle and go into the house to get his certificates. He came down from the vehicle and he was asked to walk back into the house, as soon as he turned his back to enter the house, I saw the soldier raised his gun and shot him in the back. He fell down on his face and there was blood everywhere. I could not believe what I saw. I lost all my senses.

My son was shot and killed right in front of my eyes. Right in front of my house. In the full view of his mothers, his sisters and cousins and the whole family. It was unbelievable. He was just 29 years old.... I would never wipe out that image from my mind. I can still see the bullet tearing the body of my child. I will never forgive those who did that to my family. The face of the soldier who killed my son is very clear to me."¹⁴¹

Mallam said the body was then left outside the compound of his house. Ten other men, including his neighbours and their relatives, were also arrested. The soldiers then drove away with all the people arrested. Mallam said he was later told that his son was buried by the neighbours. He spent one month in military detention and was released without further explanation.

¹³⁹ Amnesty International interview, November 2014.

¹⁴⁰ Amnesty International interview, November 2014.

¹⁴¹ Amnesty International interview, April 2013.

EXTRAJUDICIAL EXECUTIONS DURING SECURITY OPERATIONS: MORE THAN 200 PEOPLE KILLED IN REVENGE ATTACK ON DUGURI, 2012.

On 12 February 2012 Boko Haram members attacked soldiers from the Multinational JTF, based in Duguri (Kukawa LGA, close to Baga), a fishing town on an island in Lake Chad. At least two soldiers were killed in the attack. The next day soldiers from the Multinational JTF told the village head to assemble the residents of Duguri at his house and demanded that the residents produce the attackers, Ahmed Bukar (not his real name), a 55 year-old businessman told Amnesty International. But the residents said that they did not know, because many people had passed through Duguri as it was a market town.

On 14 February, the army returned. Mustapha Ali, a 60-year-old business man told Amnesty International that he and 19 other elderly men were arrested. He said: "The commander came with soldiers, they arrested 20 of us elderly people and told us to sit down. We stayed. He then ordered a soldier [in English] that they should open fire and finish with us. One of the boat drivers, who understands English, said when you kill those innocent people we will not take you back to Baga."¹⁴² The men were released.

On 15 February, around 100 soldiers from the Multinational JTF Headquarters in Baga arrived in Duguri on boats. The soldiers entered the town and opened fire on civilians and burned the majority of the town to the ground. According to the witnesses, they killed more than 200 people.

A comparison of satellite images show that the majority of the town's structures were destroyed. Amnesty International interviewed seven eyewitnesses who were in the town when the military attacked and who buried the victims, as well as two local government officials.¹⁴³ Amnesty International also received a list from local authorities with 564 names of victims who died in attacks on Kukawa Local Government: this included the military attacks on Duguri in February 2012 and Baga in April 2013.¹⁴⁴

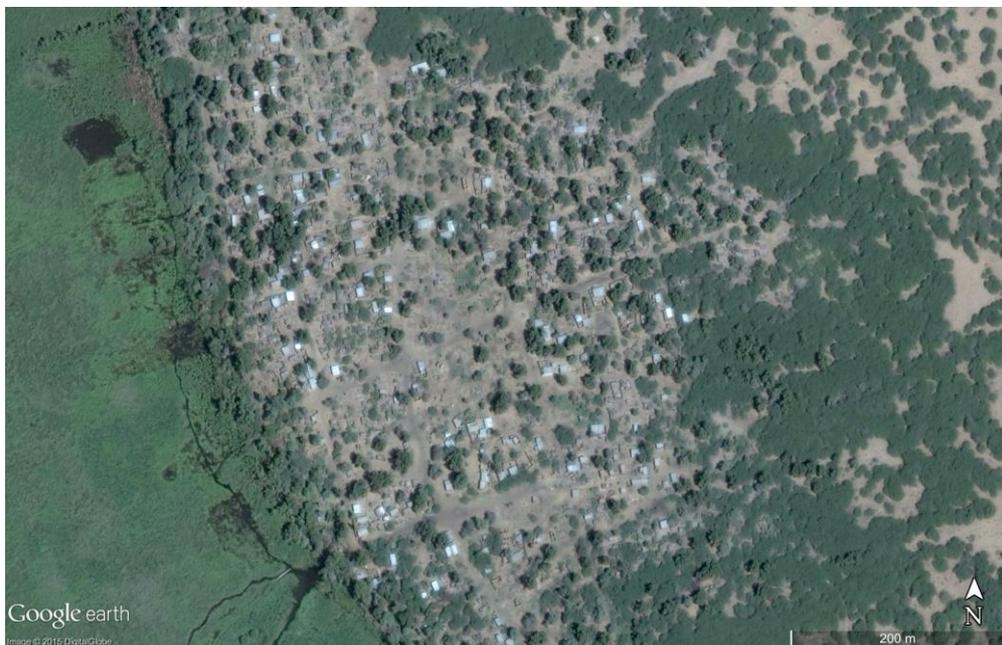
¹⁴² Amnesty International interview, May 2015.

¹⁴³ Amnesty International interviews January and May 2015.

¹⁴⁴ List is on file with Amnesty International



The Nigerian town of Duguri, a few weeks before a reported attack by Nigerian armed forces in February 2012. The town appears to be intact, with many houses and other structures clearly visible in the imagery. © DigitalGlobe / Google Earth



The Nigerian town of Duguri in 2015. The town appears to be destroyed, with a majority of the structures razed. According to eyewitnesses interviewed by Amnesty International, the town was largely destroyed by Nigerian soldiers in February 2012. © DigitalGlobe / Google Earth

Ahmed Bukar (not his real name), a 55-year-old business man told Amnesty International: “They [soldiers] started shouting that all of us were Boko Haram members and supporters and they were going to teach us a lesson. Before we could realise, they started shooting and killing people... I saw them shooting at close range, shooting into people’s houses and shooting at the roof of houses to burn them with people inside.” Ahmed fled the town and hid in a boat. The next day, once soldiers had left, he worked with other survivors to bury the dead. “We buried 80 people in my locality, while others buried their corpses in their localities as well. Some in the cemetery. The others that were badly burnt, we just managed to dig a hole near where they were lying and bury them there. Some even in their house. Some in their compound. Among those I buried, some had gunshot wounds in their backs, and some were burnt to death. You could hardly tell who they were. We knew them because they were burnt in their own houses. I remember pulling one woman and her small baby from the ashes. The baby was 18 months old.”¹⁴⁵

Abdullah Umar (not his real name), a 42 year-old fisherman, was at a friend’s shop drinking tea when the shooting started. He also managed to flee the town and hide in an empty boat. The next day, he participated in the burials. “In my locality alone, I helped to bury 17 people. Some were killed by bullets, others were burnt to death in their houses. The entire town was destroyed by the army. I helped to bury five teenagers. All between the ages of 15 and 17. The other seven people I buried were five men and two women.”¹⁴⁶ Abdullah also told Amnesty International that the military killed one of his neighbours with his four young children.

Other residents drowned while trying to escape the attack. Eyewitnesses estimated that more than 200 people were killed in the attack.¹⁴⁷ The majority of the residents left after the attack, according to Ahmed and the other former residents, Duguri is now a “ghost town”.¹⁴⁸ Satellite imagery confirms that as of January 2015, the town remains largely deserted.

A committee was set up to investigate the attack, comprising local government officials, members of the Nigerian military and the police. Residents compiled the names of those killed in the attack and presented the list to the committee.¹⁴⁹ Amnesty International was not able to establish whether the committee submitted a report. According to the witnesses no steps were taken to hold anyone accountable for these extrajudicial executions.

¹⁴⁵ Amnesty International interview May 2015

¹⁴⁶ Amnesty International interview May 2015

¹⁴⁷ Amnesty International interviews January and May 2015.

¹⁴⁸ Amnesty International interview, May 2015.

¹⁴⁹ Amnesty International interviews January and May 2015.



Baga, the impact of the “mop-up” operation. Images have been taken from a video. © Private.

“MOP-UP” IN BAGA, 16 AND 17 APRIL 2013

At 7.30 pm on 16 April 2013, Boko Haram fighters attacked soldiers from the Multinational JTF along the Baga-Malam Karanti road, killing one soldier. A shoot-out followed, in which, according to the military, 25 Boko Haram members died. The next morning at 6 am, the military started a “mop-up” operation in Baga, in the course of which thousands of buildings were destroyed and at least 185 people were killed.¹⁵⁰

According to military reports sent from the headquarters of the Multinational JTF to Defence Headquarters, 25 Boko Haram members were killed on 16 April.¹⁵¹ The preliminary report by Defence Headquarters to the President stated that a total of 30 people were killed.¹⁵² Various local representatives, however, claimed that at least 185 civilians were killed by the military, apparently in retaliation for the earlier death of a soldier.¹⁵³ Many of their bodies were burnt beyond recognition.¹⁵⁴ Residents told the Governor, when he visited the town on 21 April, that 3,059 houses had been destroyed and 187 people killed.¹⁵⁵ Satellite images published by Human Rights Watch show that at least 2,275 buildings were destroyed and 125 severely damaged.

¹⁵⁰ Amnesty International gathered 12 testimonies, including with five eyewitnesses, analysed video footage taken four days after the attack, and analysed official documents, including reports from the Multinational JTF to headquarters.

¹⁵¹ Special situation report from Multinational JTF to Office of the Chief of Defence Staff and Office of the Chief of Army Staff, copying Defence Headquarters, Army Headquarters (DATOPS), DIA, HQ 3Div, HQ NAAC, HQ NAIC, HQ JTF ORO 1, dated 17 April 2013, G/249.

¹⁵² Preliminary report by Defence Headquarters to the President, 30 April 2013. The findings include: “30 terrorists were killed in action”; “six bodies were discovered in Lake Chad 3 km away from the action spot”; and “some houses were burnt, but they were certainly not up to the number quoted”.

¹⁵³ Local officials claimed that more than 185 people died. A politician representing the area said 228 people died. Newspapers reported that many people died in a fire started by soldiers.

¹⁵⁴ Amnesty International interviews, April 2013 – May 2015.

¹⁵⁵ According to the Senate report based on an interview with the Governor, he stated that the “Baga incidence was the climax of the sour military/civilian relationship” in the state. During his visit on 21 April, he went around to “assess the level of destruction” and was informed that 187 people had died. He noted that “the people were terrified of the military and were sleeping in the bush”. Video and satellite evidence shows massive destruction; residents tell the Governor in the video that they buried 183 people. Videos are on file with Amnesty International.



Baga, the impact of the “mop-up” operation. Images have been taken from a video, taken on 21 April 2013. © Private.

An eyewitness told Amnesty International: “On the Wednesday [17 April] at 8am I saw soldiers come towards my house on the south. We didn’t see anyone fighting with them.”¹⁵⁶ Another eyewitness told Amnesty International that he saw soldiers “putting fire to the houses” in his neighbourhood as he and his family tried to leave.¹⁵⁷

Mustapha, a 21-year-old former resident of Baga, told Amnesty International that all houses in his neighbourhood were on fire. He was in his house with his friend Abubakar, his landlady and a 13-year-old girl; he managed to escape but was severely burned. When he went back to his house the next day, he found Abubakar and the girl dead. He said that soldiers had shot Abubakar inside their house, while the girl burned to death.¹⁵⁸

Abdullah Umar (not his real name), a 42 year-old fisherman who relocated in Baga after the military attacked his home town Duguri in February 2012, told Amnesty International that he hid in the bush while the soldiers were going house to house. He said: “After all the shooting and the bombing, when we came back to the town, there were more than 180 dead bodies. Some were in their house. Some in their shops, some even in their toilets. Bodies everywhere, killed by the military... Later we discovered more bodies in the water and in the bush. The number eventually increased to more than 214 people.”¹⁵⁹

Amnesty International was not able to establish how many of the people killed were extrajudicially executed and how many died in the course of shoot-outs. Witness testimonies collected by Human Rights Watch shortly after the attack describe unarmed civilians, who presented no danger to the troops, being killed by soldiers who went “door to door looking for any men.”¹⁶⁰

¹⁵⁶ Amnesty International interview, January 2015.

¹⁵⁷ Amnesty International interview, May 2015.

¹⁵⁸ Amnesty International interview, May 2015.

¹⁵⁹ Amnesty International interview, May 2015.

¹⁶⁰ Human Rights Watch, *Nigeria: massive destruction, deaths from military raid*, 1 May 2013.

DEATHS IN CUSTODY

More than 7,000 people, mainly men and boys have died in military detention since March 2011, according to information collected by Amnesty International. These deaths were often not properly or officially recorded and almost never investigated. Amnesty International gathered the data and the details of individual cases through visits to mortuaries in Maiduguri, internal military reports, statistics recorded by local human rights activists and interviews with witnesses, victims, former detainees, hospital staff, and military sources. In the last two years, Amnesty International gathered 70 testimonies about death in custody, including with 30 former detainees.

Amnesty International interviewed nine human rights defenders who monitored and recorded the depositing of bodies at mortuaries by the military. A human rights activist who received and recorded information from one mortuary in Borno state gave Amnesty International a list which shows that in 2013 alone, more than 4,700 bodies were brought to the mortuary by soldiers from Giwa military barracks.¹⁶¹ While it is possible that some of the people whose bodies were brought to the mortuary died in shoot-outs, these cases were quite rare according to anonymous sources who witnessed the corpses. Amnesty International has interviewed 24 human rights defenders, hospital staff, lawyers and journalists who frequently witnessed soldiers depositing corpses at the mortuaries. They all independently clarified that corpses deposited at the mortuaries came from military detention. All those interviewed confirmed that they could easily identify corpses killed in shoot-outs, because they were “fresh”, did not look like detainees, were not emaciated and had bullet wounds.¹⁶² They also said that corpses coming from military detention were always delivered in military vehicles or ambulances.

Most of the deaths documented by Amnesty International occurred in Giwa barracks, where in mid-2013 up to 180 deaths were recorded on some days. In addition, Amnesty International documented deaths in custody in Yobe and Adamawa state.

The numbers of deaths recorded by military units in their periodic field reports are lower than the numbers reported by other sources, such as human rights activists, former detainees and hospital staff. However, even the official figures are shocking. For example, in the first six months of 2013 alone, the figure collated from various military field reports shows that about 1,000 people died in military custody in Maiduguri.¹⁶³ Military officials told Amnesty International in confidence that the numbers internally reported by the military were just a small proportion of the actual deaths, saying: “170 died in one day alone – and the situation report [military report from the field unit to headquarters] said 13.”¹⁶⁴

A high-ranking military officer with direct knowledge of the situation in Giwa barracks told Amnesty International that based on his visits and discussions with the soldiers in charge of the detainees, he believed “close to 5,000 people” had died in detention there since the

¹⁶¹ List of corpses brought to the mortuary is on file with Amnesty International.

¹⁶² Amnesty International interviews, April 2013 – May 2015.

¹⁶³ Amnesty International interviews, July 2013 – December 2014. Messages from the Headquarters of the Joint Task Force to Defence Headquarters and Army Headquarters.

¹⁶⁴ Amnesty International interview, July 2014.

beginning of 2013.¹⁶⁵

The same military official gave Amnesty International a list with 683 names of suspects who died in military custody in the north-east between 8 October 2012 and 13 March 2013. The document does not specify the location of death.¹⁶⁶

Another military officer who was based in Giwa Barracks in 2013 and 2014 said that there was no central register for all cases of deaths in custody but that he was convinced that many more than 5,000 detainees died.¹⁶⁷ He further said that since the end of 2014, very few suspects have been taken into custody. According to him, most Boko Haram suspects are immediately executed. Several human rights defenders and witnesses from towns that were recaptured by the military, such as Bama, confirmed this.¹⁶⁸

Obtaining information on the precise number of deaths in custody became particularly challenging after August 2012 when the military instructed the mortuaries in Maiduguri not to keep records, possibly in an effort to hide the high rate of deaths in detention.¹⁶⁹ In addition, according to military sources and witnesses, not all of the bodies were taken from the barracks to mortuaries; some were buried by soldiers in mass graves.¹⁷⁰

Based on witness testimonies and analysis of video and photographic evidence, as well as information contained in military reports, Amnesty International believes that the main causes of deaths in detention included thirst, starvation, suffocation, severe overcrowding that led to spread of diseases, lack of medical attention, use of fumigation chemicals in unventilated cells, and torture.

Former detainees, human rights defenders, hospital staff and people who witnessed and recorded the removal and disposal of bodies all said that most of the bodies looked extremely thin and did not have gunshot wounds. One witness told Amnesty International: “The corpses look skinny, hungry, emaciated, with dry lips and with several signs of disease.”¹⁷¹ Amnesty International delegates also witnessed this when they visited the mortuary and saw bodies delivered by the military.¹⁷² Several witnesses told Amnesty International that corpses had “foam on the mouth”.¹⁷³

A high ranking military officer informed Amnesty International: “[in Giwa barracks] people were not strong enough to stand ... They keep them to die... They are deliberately starved.”¹⁷⁴ The officer further said: “The effect is devastating. You have massive deaths. I believe close to 5,000 [in total] have died like that. It increased after the state of emergency.”

¹⁶⁵ Amnesty International interview, July 2014.

¹⁶⁶ The list is on file with Amnesty International.

¹⁶⁷ Amnesty International interview, March 2015.

¹⁶⁸ Amnesty International interviews, March and April 2015.

¹⁶⁹ Amnesty International interview, April 2013.

¹⁷⁰ Amnesty International interviews, July 2013 – April 2015.

¹⁷¹ Amnesty International interview, April 2015.

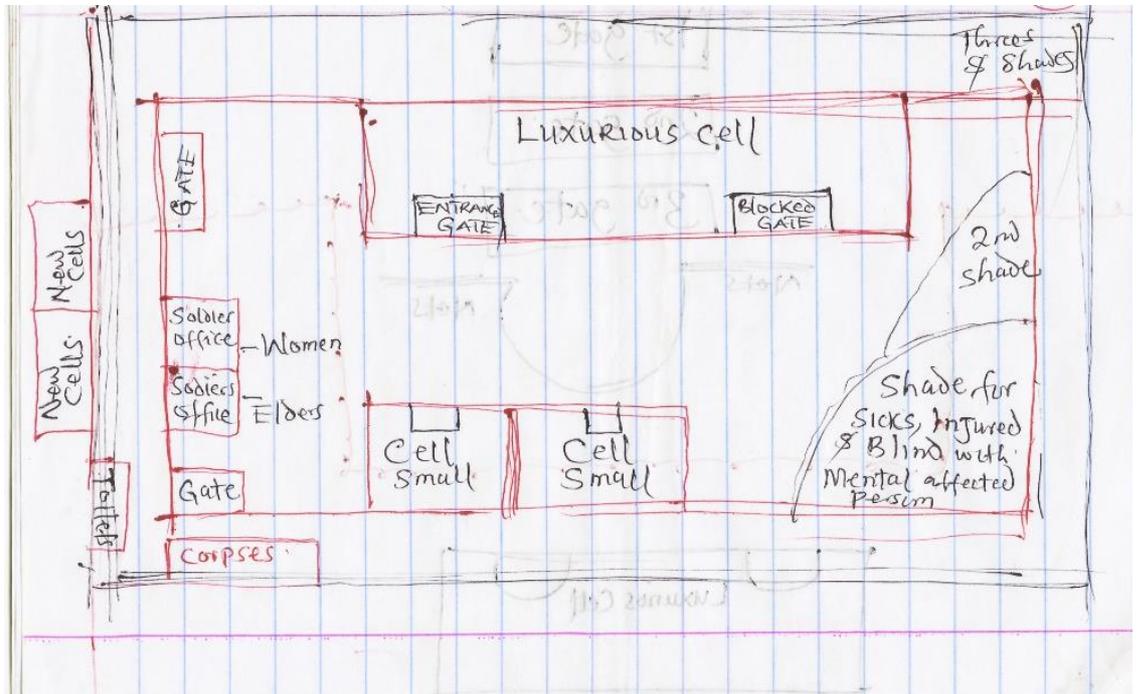
¹⁷² Amnesty International visit to Maiduguri, April 2013.

¹⁷³ Amnesty International interviews, between April 2014 and March 2014.

¹⁷⁴ Amnesty International interview, July 2014.

Torture and lack of medical assistance for injuries caused by torture is another major cause of death in military detention. Torture in detention is rampant, and many former detainees who were tortured in detention told Amnesty International that no medical assistance was provided for even life-threatening injuries caused by torture.

In April 2013 an Amnesty International research team visited a mortuary in Maiduguri after 20 corpses were taken there by soldiers from Giwa barracks. The research team saw a military convoy moving down a street in Maiduguri and residents and human rights defenders told the Amnesty International delegation that the convoy was on its way to deliver corpses to the hospital. The Amnesty International delegation visited the mortuary to verify what had happened. Upon arrival at the mortuary at around 4pm, the team saw 15 bodies, half naked and uncovered, lying outside in the mortuary compound. The team saw another five bodies lying behind a half closed door inside the mortuary. The bodies had no visible gunshot wounds but nearly all had visible burn scars. Some of the dead bodies still had their elbows tied behind their backs and the ropes as well as marks left by the ropes were still visible. The bodies looked emaciated. The condition of the corpses indicated that the detainees may have been subjected to various forms of ill treatment before death.



Sketch of Giwa barrack detention facility, Northern Nigeria, 2015. © Private.

DEATHS IN GIWA BARRACKS

Giwa barracks in Maiduguri were not built as a detention facility and initially had capacity for only 100 detainees.¹⁷⁵ In 2013, a new block with two cells was built, but the barracks were still overstretched and unable to accommodate the high number of detainees. At the time of Boko Haram's attack on Giwa in March 2014, there were some 1,600 people held there. According to former detainees interviewed by Amnesty International, there were even more detainees in 2013; one man said that at the time of his arrest in June 2013 there were 2,070 detainees.¹⁷⁶ The overcrowding was extreme – former detainees told Amnesty International that they could only sit on the floor in turns, and took turns sleeping.

The number of detainees significantly reduced after the Giwa barracks attack. By August 2014, there were 28 women and girls, aged between 10 and 60, and 205 men and boys, aged between 13 and 62, detained in Giwa barracks.¹⁷⁷ A former detainee said that by November 2014, there were 500 detainees in Giwa barracks.¹⁷⁸



Suspected detention facility within Giwa barracks, Maiduguri. Buildings are approximately between 105 - 210 m2 in size.
©:DigitalGlobe / Google Earth

Amnesty International has gathered 41 testimonies on death in custody in Giwa Barracks,

¹⁷⁵ Report of Defence Headquarters Operations Visit to Joint Task Force Operation Restore Order and Multi National Joint Task Force 22-25 January 2013. The report states: "One of the facilities [Giwa] was improvised and has a capacity for 100 detainees."

¹⁷⁶ Amnesty International interview, March 2015. He saw the number of detainees displayed, when he entered the barracks.

¹⁷⁷ Letter from Chief of Defence Staff to Amnesty International, 23 December 2014. The list is on file with Amnesty International.

¹⁷⁸ Amnesty International interview, December 2014.

including 11 former detainees. All former detainees describe the inhuman conditions which led to the death of tens of detainees a day. They said that initially they were only fed once a day, but from late 2013, when the military police became responsible for the detainees, they were fed twice a day. The former detainees consistently described the insanitary conditions in the five overground cells and one underground cell, with no washing or toilet facilities – they used nylon bags for their stools. Only detainees who were privileged to do odd jobs for the soldiers were sometimes allowed to wash themselves.

The biggest cell – the former detainees called it “luxurious cell” – measures approximately 210 square meters and held more than 1,000 men and boys. The other cells were smaller, with up to 500 detainees. The underground cell was, according to former detainees, mainly used for “confirmed” Boko Haram members.¹⁷⁹ In addition to the five cells, there is a cell for women and one for old people. Inside the compound, there is one area reserved for sick and injured detainees, the visually impaired and people living with mental illness.¹⁸⁰

The statistics secured by Amnesty International show that the months of May, June and July 2013 were the most deadly in Giwa barracks, with up to 180 deaths being recorded on some days. In June 2013 alone, more than 1,400 corpses were taken to one of the mortuaries.¹⁸¹ The numbers went down from August onwards, and from September there were on average fewer than 10 deaths per day. Military officers, former detainees, hospital staff and human rights defenders confirm that in those peak months, the soldiers from Giwa Barracks would take corpses to the mortuary in trucks and ambulances up to three times a day.¹⁸²

After the Boko Haram attack on the barracks, when most detainees either escaped or were recaptured and executed, the number of detainees decreased significantly, and the number of deaths as well: in April and May 2014, 20 detainees died in Giwa barracks. By early 2015, the military took only three to 10 corpses a week to the mortuary.

Testimonies of former detainees from Giwa obtained by Amnesty International corroborate the data on mass deaths in detention and paint a grim picture of a detention facility where the military either recklessly failed to take any measures to prevent the deaths, or, possibly, deliberately caused the deaths of detainees.

Ahmed Maima (not his real name), a 26-year-old trader and father of two, was detained in Giwa barracks in mid-2013 when the death toll was at its highest. He told Amnesty International that he was arrested on 2 May 2013 in Gwange, Maiduguri, along with 121 other local men.¹⁸³ He said that he was not told why he had been arrested, only that the military said “all of you are Boko Haram”. He described what happened after the detainees were brought to the barracks: “They made us lie face down. They beat us with big sticks.

¹⁷⁹ Former detainees told Amnesty International that the military know who is a Boko Haram member and who is not.

¹⁸⁰ Former detainees told Amnesty International that some privileged detainees were taken out of the cell if they were sick.

¹⁸¹ List with numbers of bodies taken to the mortuary is on file with Amnesty International.

¹⁸² Amnesty International interviews, April and July 2013; March and December 2014, April 2015.

¹⁸³ Ahmed Maima (not his real name) gave Amnesty International a list with the names of the 36 detainees he knew.

Three times each person was beaten on their back. The soldiers said ‘welcome to our die house, welcome to your place of death’.” He spent four months in detention, until his relatives managed to secure his release by paying a bribe. By that time, he said, out of 122 men initially arrested, only 11 survived. After the Giwa barracks attack, only three of the 11 returned home. He said that more than 1,000 people died in a one-month period. He said: “Daily they die”. He thought that because of hot weather, they may have died from “no oxygen”. He described how they would see them vomit and have “stools like water”.¹⁸⁴

Amnesty International has also received reports from military sources, former detainees, and hospital staff that around July and August 2013, there was an outbreak of cholera in Giwa military barracks resulting in the deaths of many detainees.

Ahmed was interrogated only once, when he had to state the date and location of his arrest. He said that for the entire period of his detention he and others were held chained in pairs, up to 400 people in a cell of approximately 8m by 8m. He told Amnesty International:

“They started to die after three days [after arrest], more died after one week... In the morning you go and collect small food, breakfast, they open the cell, have breakfast of rice, a small amount, they put it in one hand. You give your hand, they will put rice, you swallow it, you go back to the cell. Later in the day they give you water once. It is in a jug and you drink and pass it to another inside the cell. In the evening it is rice and stew, small. They give it in a nylon bag. There is no washing, no showers. No sleep. You just sit down only, the place is very tight, just sit on your bottom. You can only pray in the cell where you are sitting.”

Ahmed said that several times he was tasked with loading dead bodies of detainees into trucks before they were taken out of the barracks:

“When you come and collect food in the morning, you would see the dead bodies. They bring out the dead bodies and put them outside the cell. ... Detainees load [the corpses] into a car – a big lorry, the one they use for bins, environment and sanitation – BOSEPA [Borno State Environmental Protection Agency]. I had to load bodies. The soldiers just ask ‘who is dead?’”¹⁸⁵

Ahmed said that any deaths that occurred after breakfast were collected the next day. As all inmates were chained in pairs, it often happened that detainees had to wait a day chained to their dead partner before the body was removed.

Hussaini Kallo (not his real name), a 31-year-old grain seller who was detained in Giwa for 18 months, told Amnesty International that his cell mates once thought he had died and took his body out of the cell: “I was once taken to where the corpses were kept because everybody thought I am dead. When I was gradually breathing, I was helped by one of the persons [detainees] that knew me in the cell and he rescued me. Or else I would have been buried. In the evening, ... a colonel came to tour in the cell and he asked me if I am still there. I told

¹⁸⁴ Amnesty International interview, July 2014.

¹⁸⁵ Amnesty International interview, July 2014.

him 'yes sir'. He then asked 'you did not die yet?'"¹⁸⁶

Hussaini was arrested during a raid during a mass arrest at the Gwange bridge in Maiduguri, along with 19 others. He said most others died in custody of high blood pressure, starvation, torture and illnesses. He said each cell had their leaders, who received more food from the soldiers and worked with them. According to him, the soldiers encouraged them to kill detainees: "The soldiers usually will come and put sticks and rope inside the cells so that if the Chairman [of the cell] discovered anybody that is doing something, they still beat him and tied him. The leaders in the cells always point to specific persons and kill him in a cell whenever they want. The military used those guys in the cells as means to eliminating people."¹⁸⁷

Mamuda Tukur (not his real name), a 40-year-old farmer and former detainee from Giwa, told Amnesty International about the deaths of 25 detainees who were arrested with him. Mamuda was arrested on 26 November 2012 during a house to house search in his hometown Bama along with his two brothers and 23 other men and eventually transferred to Giwa barracks.¹⁸⁸ Mamuda spent more than 15 months in detention until he escaped during the Boko Haram attack on the barracks in March 2014. His two brothers and all the others arrested with him died in Giwa. He said:

"People are dying. Sometimes it is cholera. Instantly, before 1pm, one will die. In the night, three or four will die. People die on a daily basis. There was nothing like medical attention. The soldiers don't even listen to you. They come in the morning and say 'how many have died?' We tell them the number and then we have to carry them outside. If someone dies in the afternoon then you have to sleep with them until the morning."¹⁸⁹

Saleh Jega (not his real name), a 25-year-old carpenter from Maiduguri, was arrested along with 18 others on 25 November 2012 during a cordon-and-search operation in Gwange, and taken to Giwa Barracks. He escaped after more than 15 months when Boko Haram attacked the barracks. He said that some days 50 or up to 80 people died, mainly of starvation and thirst. Out of the 19 he was arrested with, only four survived.

"We have a sense that they just want us to die. Many people died in the cells. Any time we were denied water for two days, 300 people died [in those two days]. Sometimes we drink people's urine, but even the urine you at times could not get. Every day they died, and whenever someone died, we [the other detainees] were happy because of the extra space. And because we will be taken out, to take out the corpses, and the military will give us water to wash our hands and when washing our hands, we drink the water."¹⁹⁰

¹⁸⁶ Amnesty International interview, March 2015.

¹⁸⁷ Amnesty International interview, March 2015.

¹⁸⁸ According to an eyewitness to the arrest, in total 36 men were arrested. Ten were released the same day, the remaining 26 transferred to Maiduguri. According to the eyewitness, there was no reason to suspect they were Boko Haram members.

¹⁸⁹ Amnesty International interview, December 2014.

¹⁹⁰ Amnesty International interview, March 2015.



Amnesty International interviewed Saleh Jega (not his real name), a former detainee in Maiduguri in March 2015. The Nigerian military arrested him in 2012 and he spent 15 months in Giwa barracks, Maiduguri. He is demonstrating how inmates had to sleep seated because there was not enough space to lie down. © Private.

In addition to torture, thirst, starvation, suffocation and untreated diseases, another possible cause of death in Giwa Barracks is the fact that the cells, which are small, congested and poorly ventilated, were fumigated with chemicals to kill insects. Amnesty International has spoken to former detainees and military sources and reviewed military correspondence which confirms that cells were regularly sprayed and that after such fumigation, there was an increase in sickness and deaths of detainees.

One military official with specific knowledge about Giwa Barracks told Amnesty International: “In Giwa barracks they were fumigating [the cells] for cockroaches and bed bugs... Many Boko Haram suspects died as a result of the fumigation. They fumigated with the chemicals you use for killing mosquitoes. It is something very powerful. It is very dangerous.” He said the practice only ended in March 2014, after the barracks had been attacked and there were fewer than 100 detainees left.¹⁹¹

Former detainees told Amnesty International that this fumigation was carried out when the detainees were outside the cells for 30 minutes, for instance when collecting their breakfast. They said the chemicals smelled very strong, and some detainees started feeling sick immediately upon return to their cells.¹⁹²

The bodies of detainees who died in Giwa barracks were taken to the two mortuaries in Maiduguri: State Specialist Hospital and University of Maiduguri Teaching Hospital mortuaries. From there, BOSEPA (Borno State Environmental Protection Agency) personnel take the bodies in garbage trucks for burial in unmarked mass graves in the Gwange cemetery and other locations in Maiduguri, such as Baga Road. The vast majority of people who died in military custody since 2011 have been buried in mass graves. In the past, the few relatives who knew their loved one had died, came to collect the corpses from the mortuaries, but this stopped in early 2013 after soldiers were posted in the mortuaries. Hospital staff told Amnesty International that the soldiers insisted that relatives who came to collect bodies must sign a form stating that the deceased was a Boko Haram member. They said most relatives were too scared to come to the mortuary.¹⁹³

All hospital and BOSEPA staff interviewed by Amnesty International said the military had threatened and instructed them not to ask questions. A man involved in the burials told Amnesty International: “We are given strict warnings by the military and our bosses not to ever try identify dead bodies of the unknown [detainees], even if we know them. Even if they are our families. I've buried many people I know in this town, among the unknown corpses.”¹⁹⁴

¹⁹¹ Amnesty International interview, September 2014.

¹⁹² Amnesty International interview, December 2014.

¹⁹³ Amnesty International interviews, April 2013- May 2015

¹⁹⁴ Amnesty International interview, May 2015.



BOSEPA garbage trucks transport the corpses for burial in unmarked mass graves in the cemetery and other locations in Maiduguri. © Private.

DEATHS IN SECTOR ALPHA (GUANTANAMO), DAMATURU

Amnesty International documented similar patterns of deaths in custody, although on a smaller scale, in a military detention facility in Damaturu, Yobe state: Sector Alpha, commonly referred to as Guantanamo, which held more than 160 detainees in June 2013.¹⁹⁵

Former detainees from Sector Alpha described appalling conditions there, with two cells, each with space for 10 to 15 people, holding up to 70 detainees. They all said there was not enough space for everyone to lie down so they took turns. The detainees got food once a day – a small amount of rice that would fit in their palms. Detainees were only allowed out once a day to use the toilet and eat – the cell would be open for 30 minutes.

Mauzu Yakubo (not his real name), a 40-year-old teacher from Potiskum, Yobe state, was arrested with 58 others on 29 December 2012, during a house to house search, just after prayer time. They were taken to Damaturu and detained in Sector Alpha. He was “screened”

¹⁹⁵ A military contact gave Amnesty International a copy of a document showing the total number of detainees. Daily parade state of suspects under custody 10 June 2013, Damaturu.

in detention and released with 31 others on 11 January 2013. Mauzu told Amnesty International that four of the men arrested with him died because they were not given medical treatment. He said that all of the victims died as a result of severe beatings sustained during the arrest or in detention and lack of medical assistance. He said:

“First one, a primary school teacher died as a result of being beaten on the first day. He died after three days in Guantanamo after receiving no medical assistance. Some soldiers had tried to give him first aid, but he had internal bleeding and there was no proper doctor... A 50-year-old barber from our village also died. He had received many machete slashes on the side of his head – his head had subsequently swollen up to the extent that even his eyes did not open. I used to help him and give him food. He was not in a good condition, but for a long time he did not get any medical attention. He was eventually taken to the hospital by the Commandant himself but he died four days later.”

The other two detainees, Mauzo Yakubo said, also died after they were severely beaten on the first day and never recovered, in the absence of medical assistance. The fourth detainee was a 30-year-old mason, who died after about 10 days in detention. Mauzo Yakubo said that the detainees’ pleas for medical help were left unanswered: “Whenever any of these persons was sick or dying, we used to try asking for medical help. The soldiers paid no interest in any of this.”¹⁹⁶

Amnesty International established that on a single day, 19 June 2013, 47 detainees died, apparently from suffocation, in Sector Alpha detention facility.¹⁹⁷ A senior military source, who had direct information about the incident, said that the 47 men had been arrested in various locations across Yobe state. He said that all of them were brought into the detention facility and placed in the same small cell into which they could barely fit, even standing. The detainees were locked in the cell for over 24 hours, and the following day when the soldiers came to the cell, they discovered the dead bodies. Some of the detainees were asked to bring out the rest of the corpses and place them on the ground in the compound. They were later buried by officials from the state Ministry of Environment.¹⁹⁸

Photos taken on the morning the bodies were removed from the cell which were made available to Amnesty International show the dead detainees lying on the ground in the detention centre compound. There are no visible gunshot wounds on the bodies but the corpses look similar to some of the bodies Amnesty International delegates saw in the mortuary in Maiduguri which had come from Giwa military barracks.¹⁹⁹ In July 2013, Amnesty International raised this case with senior officials at Defence Headquarters in Abuja. They initially denied that such deaths happened in their custody, but promised to investigate. Amnesty International has not receive any response from their investigation on this specific case.

¹⁹⁶ Amnesty International interview, July 2013.

¹⁹⁷ A list with the names of the detainees is on file with Amnesty International.

¹⁹⁸ Amnesty International interview, July 2013.

¹⁹⁹ The metadata of the photos confirms they were taken on 19 June 2013 at 7:35. Like the bodies from Giwa barracks, they seem to have no gunshot wounds, look emaciated, and are only half dressed. Photos on file with Amnesty International.



Corpses of 47 men who died in custody on 19 June 2013. © Private

Alhaji Ibrahim (not his real name), a 55-year-old business man and farmer, was arrested in August 2012 with 20 men from his neighbourhood during a raid. Soldiers took them to Guantanamo where he spent 15 days in detention. He said he was screened on the third day by local youths, used as informants by the military, who confirmed that he was not a Boko Haram member. The army did not release him until 12 days later, without further clarification. “We were 40 people in the cell. Eleven people died in the period I was there. Some die at night, some die in the afternoon. Some died of the treatment they got from the soldiers, some of suffocation, because the cell was small and overcrowded. It used to be a stall. No one was allowed out, not even to stretch our legs.”²⁰⁰

On 11 November 2012, soldiers of the JTF arrested Usman Audu (not his real name), a barrister who had provided legal representation to a Boko Haram suspect in military detention, at his house along with five others. No explanation was given and they were taken to Guantanamo. The next day, they were paraded in front of the media as Boko Haram sponsors. He was kept in a cell with 20 others and after five days he was transferred to Presidential Lodge. On 8 December 2012 he was released. He said he saw many detainees die. “Boko Haram suspects died every day. Many cannot resist the ill-treatment and the beatings and many are starved.”²⁰¹

Hassan Usman (not his real name), a 25-year-old man from Damaturu, was arrested in July 2012 with 20 others during a house-to-house search. He told Amnesty International: “Usually, if people died, the hospital people would come and carry and go [take the bodies away]. Every one or two days someone will die because there is not enough food... Everyone lost weight, we were all slim... Everyone was sick, there was no medical attention, they [the soldiers] want you to die. In the morning they will say 'how many died?' if yes, they will take the coffin [corpse] outside.”²⁰²

Hassan said that some detainees died because of torture. He told Amnesty International that he and other detainees were beaten and hung from an iron pole. He said: “One man, when

²⁰⁰ Amnesty International interview, July 2013.

²⁰¹ Amnesty International interview, July 2013.

²⁰² Amnesty International interview, December 2014.

brought out they beat him and he became mad. One of the soldiers brought him out and interrogated him. He started abusing him. The soldier ties him and beat him for nearly 24 hours. He was hung on this thing [a pole]. ...They put a pyre under him and it was burning his face until he died. The pole is L-shaped like an elbow. So they hang you. Your hands and legs are tied together behind your body and the face is pointing down.”²⁰³

Hassan was released in December 2012 after a soldier decided to help him. He said: “One morning I said to the soldier 'Oga please help me' 'How?' 'Please shoot me with your gun, it is better than staying like this'. The soldier said 'no, tomorrow you will be released'.” He was indeed released the following day, he thinks because the soldier had said they both came from the same area. Looking back he said: “That place is so dangerous and dirty, even to die is better.”²⁰⁴

DEATHS IN JTF HEADQUARTERS POTISKUM

In Potiskum, detainees were kept in a makeshift detention facility nicknamed “Rest House” in the GRA (Government Reserved Area).²⁰⁵ A police officer who was posted at this facility told Amnesty intentional that “lots of people” had been killed and buried in secret there. Between June and October 2013 alone, he said, more than 500 corpses were buried in and around the camp. He said: “They don't take them to hospital if they're sick or to the mortuary if they die. They just bury them. Nobody outside Potiskum seems to know about these secret killings and burials.”²⁰⁶

Amnesty International interviewed eight former detainees from Potiskum. One of them, 33-year-old Jidda Ali (not his real name), described how one of his fellow detainees died as a result of torture and neglect: “They have a big hole [in the ground] in the corner of this camp where they put people for long hours and even days. ...they put about seven of us into the hole. We met about four other men in the hole as well. There were broken bottles inside the hole and we were put into the hole with only our trousers on. We were barefoot ... They poured cold water on us and at other times they burn polythene and drop the hot melting polythene on our backs. I spent over three days in this hole.

“One of the other men in the hole had blood all over his body. I later learnt he had been there for three days. His hands were still tied behind his back but the skin was peeling off. This man kept asking for water all night. But nobody gave it to him. At one point, one of the soldiers even hit him on his head with a stick for shouting too much. He fell on the broken bottles. He kept shouting but his voice was no longer loud.” The next morning the detainees found that the man had died.²⁰⁷

Jidda said that the soldiers then took the corpse to nearby bushes where other dead bodies were lying. After three days in Potiskum, Jidda was transferred to Sector Alpha facility and then released.

²⁰³ Amnesty International interview, December 2014.

²⁰⁴ Amnesty International interview, December 2014.

²⁰⁵ The Rest House was used as a lodge for government officials.

²⁰⁶ Amnesty International interview, November 2013. Amnesty International was not able to verify the number of people killed in Potiskum.

²⁰⁷ Amnesty International interview, July 2013.

Mallam Saidu (not his real name), a 25-year-old trader, was arrested on 29 November 2012 with 57 other people in Potiskum during a raid in the street. Soldiers assembled the men, tied their hands and asked questions about a mobile police officer who had been killed that day. He said: "The soldiers said 'we are going to kill all of you' and were beating us." They were taken to the JTF detention centre and put in the hole. "They started pouring water on us, in the hole. We were 57 in the hole." He stayed one night in the hole and the next morning he and four others were transferred to Guantanamo in Damaturu.²⁰⁸

Umar Mohammed (not his real name), a 32-year-old man who drills boreholes for a living, was arrested by the military during a mass arrest in Potiskum in August 2014. Umar told Amnesty International that the soldiers, who were conducting a raid on the town, rounded up 32 men who happened to be there, told them to lie on the road and beat them with sticks and gun butts. Umar said that during the arrest, the soldiers broke his arm. He also described being held in the hole. Umar said the hole was divided in two sections: on one side there was what he described as "the punishment hole", where people were blindfolded. The other side was for those newly arrived. He estimated each section measured three by three metres, and was about 1.2 meters deep. During the five days that he was in the hole, three people died, he said: "Anyone who dies, they will throw in another hole, a pit...It was open and filled with bodies, two to three meters deep. The bodies were to the top. [On his second day in detention] it was closed, because it was full." After five days, Umar was released, without further explanation.²⁰⁹

By April 2015, the military had transferred all detainees out of this facility. A person who visited the camp said: "I saw the hole, where they used to keep people. I saw bottles, the nails and other sharp objects. I also saw the blood stains. The hole is quite deep. Also wide, like a small room."²¹⁰

DEATHS IN OTHER DETENTION CENTRES

Amnesty International was not able to obtain detailed information about deaths in custody in other detention facilities, but circumstantial evidence points to similar patterns of abuse in at least three other facilities: the Multinational JTF detention centre in Baga, Borno state, the 23 Armoured Brigade barracks in Yola, Adamawa state; and Presidential Lodge in Damaturu, Yobe state. Further investigation is necessary to establish the number and circumstances of detainees' deaths in these facilities.

DEATHS IN MULTINATIONAL JTF DETENTION, MILE 4, BAGA

Amnesty International analysed 102 military reports sent from the Multinational JTF facility in Baga to Defence and Army Headquarters between March and August 2013. Most of these reports mention the arrests of suspects and their subsequent deaths, usually five to 10 days after the arrest, often without specifying the cause of death. In the reports analysed, 66 names of detainees who died in custody are mentioned.²¹¹

²⁰⁸ Amnesty International interview, May 2015.

²⁰⁹ Amnesty International interview, May 2015.

²¹⁰ Amnesty International interview, April 2015.

²¹¹ List with the names of detainees who died in custody is on file with Amnesty International.

For example, several consecutive reports from Multinational JTF to Defence Headquarters and Army Headquarters mention the arrest on 12 March 2013 of Malam Umar Babale and Sheriff Hassana in Doro (Kukawa LGA, Borno State)²¹² and then indicate that Sheriff Hassana died on 19 March²¹³ and Malam Umar Babale on 20 March.²¹⁴ Two other reports mention the arrest of Auwali Haruna on 20 March 2013²¹⁵ and his subsequent death on 5 April 2013.²¹⁶

Some reports do mention cause of death. For example, Babagana Kyari, arrested by the Multinational JTF on 30 May 2013 in Tumbu Gini, died on the day of arrest because he “refused eating and drinking while in custody and consequently died enroute Baga while being transferred to HQ MNJTF”.²¹⁷

DEATHS IN 23 ARMoured BRIGADE, YOLA, ADAMAWA STATE

A senior military source told Amnesty International about high death rates in 23 Armoured Brigade barracks in Yola, saying that that there were daily deaths, sometimes up to 30 detainees in a single day.²¹⁸

118 documents from 23 Armoured Brigade seen by Amnesty International confirm Boko Haram suspects died daily: these documents give 218 names of suspects who died between 2 January and 30 December 2014.²¹⁹ Amnesty International was not able to verify the total number of detainees who died in Yola detention.²²⁰

The detention facility at 23 Brigade has six cells, with a capacity of approximately 60 people. At the time of a visit by the Joint Inspection Team (JIT) in July 2013, there were 112 suspects held in Yola.²²¹

²¹² Weekly intelligence summary, from Multinational JTF to Defence Headquarters and Army Headquarters (DATOPS), dated 15 March 2013. Copies sent to: DIA, HQ 1 DIV, HQ 2 DIV, HA NAAC, HQ 3 BDE, HQ 21 BDE, HQ 3 DIG.

²¹³ Daily site report from Multinational JTF to Defence Headquarters and Army Headquarters (DATOPS), dated 20 March 2013. Copies sent to: DIA, HQ 1 DIV, HQ 2 DIV, HQ NAAC, HQ 3 BDE, HQ 21 BDE, HQ 3 DIG. MNJTF/G3/240/04, G3/197.

²¹⁴ Daily site report from Multinational JTF to Defence Headquarters and Army Headquarters (DATOPS), dated 21 March 2013. Copies sent to: DIA, HQ 1 DIV, HQ 2 DIV, HQ NAAC, HQ 3 BDE, HQ 21 BDE, HQ 3 DIG. MNJTF/G3/240/04, G3/198.

²¹⁵ Daily site report from Multinational JTF to Defence Headquarters and Army Headquarters (DATOPS), dated 21 March 2013. Copies sent to: DIA, HQ 1 DIV, HQ 2 DIV, HQ NAAC, HQ 3 BDE, HQ 21 BDE, HQ 3 DIG. MNJTF/G3/240/04, G3/198.

²¹⁶ Weekly intelligence summary from Multinational JTF to Defence Headquarters and Army Headquarters (DATOPS), dated 12 April 2013. Copies sent to: DIA, HQ 1 DIV, HQ 2 DIV, HA NAAC, HQ 3 BDE, HQ 21 BDE, HQ 3 DIG. MNJTF/G3/240/04, G3/238.

²¹⁷ Message from MNJTF to the headquarters of JTF ORO, dated 1 June 2013; and message from the Headquarters JTF ORO to MNJTF, dated 1 June 2013.

²¹⁸ Amnesty International interview, November 2014.

²¹⁹ 118 documents from 23 Armoured Brigade, signed by the commanding officer. The documents are on file with Amnesty International.

²²⁰ The documents only give a partial picture as Amnesty International does not have all the documents relating to 23 Armoured Brigade and military sources confirm that deaths in custody are routinely under reported.

²²¹ Joint Investigation Team (OP BOYONA), Preliminary report on the activities of the joint investigation team, August 2013, DHQ/ABJ/40/3/4/JIT.



Pictures of detainees in Yola, 23 Armoured Brigade, August and September 2013. © Private

A senior military officer gave Amnesty International 81 photos of detainees, taken between 7 August and 18 September 2013 in 23 Armoured Brigade detention facility, Yola.²²²

According to Defence Headquarters, there were 23 suspects aged between 20 and 37 held in Yola in August 2014.²²³ Amnesty International was told by a former detainee that three of the cells were used to detain soldiers facing court martial.²²⁴

Amnesty International gathered 15 testimonies, including from five former detainees, on 23 Armoured Brigade confirming the daily deaths of detainees. In the early hours on 2 December 2014, nine soldiers arrested Bashiru Usman (not his real name), a 27-year-old business man, in his house. The soldiers beat him, told him he was a Boko Haram member and took him to their barracks. Several officers interrogated him that morning: "The officer threatened to shoot me for not cooperating. He told me if I cooperate, I will be released, if not, they will shoot me and that is the end of the story. They were slapping me on my head, back, stomach and face. They used a [water] hose to beat me seriously on the back. The interrogation and beating went on for two hours."²²⁵

Bashiru said that there was not enough space for all detainees to lie down in his cell. Many people in his cell were very sick and died: "Every morning there were two to three dead bodies, likewise in the evenings two people would have died. Not less than five people died per day." He did not know the exact cause of death but did mention they were only given water once a day and a very small amount of food. He said that at times, the detainees even drank their own urine. After three days Bashiru was released, thanks to the intervention of his lawyer.

A lawyer who handled several cases of detainees held in 23 Armoured Brigade detention confirmed to Amnesty International that many detainees, according to his knowledge, died in detention there: "Some are released, others die in the cells. Those that die, die of starvation. No water, no food. They starve to death. They don't return the bodies to the family because the family may raise issues. So you never hear anything again."²²⁶

A senior military source who spoke with many soldiers based in 23 Armoured Brigade told Amnesty International that in December 2014, several soldiers arrested for fleeing and refusing to fight Boko Haram were detained with the suspects. He said: "It is a deliberate policy of the commander to refuse to feed the suspects. The officers said they had to share their own food with the suspects in the cell. Initially they were not talking to the Boko Haram

²²² Photos are on file with Amnesty International. On some of the photos a building can be seen with the text '23 Brigade PRO COY Duty room' written on the wall.

²²³ Letter from the Office of the Chief of Defence Staff to Amnesty International, dated 23 December 2014. *List of Boko Haram terrorist detainees at military detention facility Yola as at 27 August 2014.*

²²⁴ Amnesty International interview, February 2015.

²²⁵ Amnesty International interview, February 2015.

²²⁶ Amnesty International interview, May 2015.

suspects when they were locked up with the suspects in the same cell, but they later changed their mind after some days because they saw the way the suspects were left to starve to death.”²²⁷

DEATHS IN PRESIDENTIAL LODGE, DAMATURU

Presidential Lodge, otherwise known as Guardroom, had a similar pattern of deaths in custody. In June 2013, there were approximately 130 detainees. According to a senior military source familiar with activities at the Presidential Lodge, it was meant to keep suspected Boko Haram members who had been “screened” and “confirmed” as Boko Haram fighters or accomplices. The military source described the various methods used in interrogations: “An electrified baton is often used on a person to make them talk. People have been killed using these tactics.”²²⁸

Boko Haram suspects taken to the Presidential Lodge were kept there until they agreed to cooperate. If they refused, they were either killed in the bush nearby or taken to another location to be killed. According to the source: “there is no attempt whatsoever for trials of people suspected of being Boko Haram. They either cooperate or they are killed.”²²⁹

He said many of the detainees were also killed in the bushes near Maiduguri road in Damaturu, Yobe state.

MASS ARBITRARY ARRESTS AND UNLAWFUL DETENTION

MASS ARRESTS DURING CORDON-AND-SEARCH OPERATIONS

Since 2011, Nigerian security forces have arrested at least 20,000 people,²³⁰ mostly young men in Adamawa, Borno and Yobe states. The actual number is likely to be much higher as Amnesty International’s research shows that there is no proper, centralized system to record the number of arrests carried out by the security forces. The number of arrests increased significantly following the imposition of the state of emergency in Adamawa, Borno and Yobe states. According to military sources, between January 2012 and July 2013, more than 4,500 people were arrested, including more than 1,600 people arrested as part of Operation Restore Order (ORO) I between January and June 2013.²³¹ A document released by the Headquarters of the JTF on 30 June 2013 also states that in the first six weeks of Operation BOYONA, between 16 May 2013 and 30 June 2013 alone, 916 “Boko Haram suspects” were arrested.²³²

Following Boko Haram raids on towns and villages, or in locations where Boko Haram is known to be active, Nigerian troops, often with the support of Civilian JTF members, rounded up hundreds of men and boys, and used informants to identify suspected Boko Haram members. Amnesty International has also documented arrests during house-to-house raids

²²⁷ Amnesty International interview, December 2014.

²²⁸ Amnesty International interview, July 2013.

²²⁹ Amnesty International interview, July 2013.

²³⁰ Amnesty International research, January 2012 – May 2015.

²³¹ Amnesty International interviews, between June 2013 and November 2014.

²³² Message from Headquarters JTF ORO to DHQ. Dated 30 June 2013, Update on Operation BOYONA from 29 – 30 June.



Images taken from a video of Nigerian soldiers and Civilian Joint Task Force members conducting a 'screening' operation in Dikwa, Borno State, October 2013. Left to right: Children are kept separately to the men of fighting age, seated around the corner; Men waiting to be 'screened'; a suspect is restrained. © Private.

and at checkpoints, as well as targeted arrests of suspected Boko Haram members' relatives.

A few of those arrested were released shortly after, sometimes after their families paid bribes to the military; a small proportion have been prosecuted and tried; thousands have been executed or died in detention; and the rest are held indefinitely in unauthorized and unacknowledged military detention, denied contact with lawyers or relatives, without formal charges, and without ever having access to a court.

Information collected by Amnesty International suggests that the majority of detainees are held in Giwa and Mai Malari barracks in Maiduguri, and in the Multinational JTF facility in Mile 4, Baga (all Borno state); in Sector Alpha ("Guantanamo"), Presidential Lodge in Damaturu and the JTF base ("Rest House") in Potiskum (Yobe state); and in 23 Brigade Barracks in Yola (Adamawa state). Some suspects have also been transferred to military facilities outside the three states, such as 101 Battalion barracks in Kainji (Niger state), Shadawanka barracks in Bauchi (also known as "Wetland", in Bauchi state) and 3 Armoured Division barracks in Jos (Plateau state). Others have been handed over to the Department of State Security (DSS), mostly in Abuja.

Most of the detainees are young men, although Amnesty International documented arrests and detention of boys as young as nine years old.²³³ Amnesty International has also documented the arrest and detention of 30 women and girls.

Witnesses, victims, and sources in the military described dozens of such mass arrest and screening operations to Amnesty International.

Amnesty International has also reviewed dozens of videos of such operations. They show

²³³ Amnesty International interviews between January 2012 and December 2014; on 1 June 2013, 35 children aged between 9 and 15 were released from Giwa barracks by the then Commander of 21 Armoured Brigade on behalf of the Chief Defence Staff, and handed over to the Governors of Borno and Yobe states.

hundreds of residents gathered and seated at a market or other central location.²³⁴ In some videos the “screening” is shown, others show dozens of young men being arrested and taken away on foot or loaded into trucks. One video shows a joint military and Civilian JTF screening operation in Baga on 13 July 2013,²³⁵ in which young men who appear to be Civilian JTF members are seen going from house to house, destroying some houses and setting others on fire. Hundreds of villagers are seated in a central area, where two men who appear to be dead can be seen. Their hands are tied behind their backs, they have gunshot wounds in their chests and they are lying in a pool of water.²³⁶

BAGA MARKET, MAIDUGURI, MAY 2013

Alhaji Dani (not his real name), a 30-year-old fish dealer, told Amnesty International how he was arrested, along with hundreds of others, at Baga market in Maiduguri on 29 May 2013. He said that the soldiers surrounded the market and began screening the men with the assistance of three masked informants:

“I happened to fall victim to one of the three masked men – he pointed me out. In total around 300 people were pointed out by the men – sellers, dealers and customers alike. While the people were being selected, the soldiers would hit the selected ones with rifle butts and push them along.

“They packed us all inside eight different trucks – one on top of the others – our hands were tied with nylon rope behind our backs but we were not blindfolded.”²³⁷

Alhaji said that the soldiers took the men to Giwa barracks. He and six others were released three days later, but he did not know what happened to the other detainees.²³⁸

GALLARE, APRIL 2014

Several witnesses described to Amnesty International the arrest of 42 men in Gallare, Konduga LGA, on 25 April 2014.²³⁹ The witnesses said that a large group of military and Civilian JTF members came to the town at around 8am and started firing in the air and at houses, telling people to come out.

²³⁴ Trusted sources in Nigeria shared these videos with Amnesty International. Many were taken with mobile phones. Amnesty International has done an extensive content analysis, extracting and analysing specific features depicted in them. The analysis included image enhancement techniques and reviewing the video in slow motion. The content analysis has been supplemented by an analysis of the videos' metadata where available. Amnesty International also interviewed people who had detailed, independent information about some of the videos' content.

²³⁵ According to the metadata of the video, the video was taken on 13 July 2013. Amnesty International was not able to independently verify the date.

²³⁶ Video received during a mission to Maiduguri in July 2014, dated 13 July 2013.

²³⁷ Amnesty International interview, July 2013.

²³⁸ He told Amnesty International that one evening, he and six others were taken out of the cell to an area outside town. The soldiers told them they were being released because they were Muslims, like the soldiers themselves.

²³⁹ Amnesty International gathered 15 testimonies between May and December 2014, including nine eyewitnesses.



Images taken from two videos showing left: Civilian Joint Task Force members interrogate a suspected Boko Haram member; middle and right: Images from a video in which two suspects are questioned and then walked in front of an open grave and shot by men in military uniform; Mari, Nigeria. © Private

Ibrahim Maina (not his real name), a resident of Gallare who witnessed the arrests, told Amnesty International that the military told them to assemble at the market square, separated men from women, and told men to take off their clothes down to their underwear. He said that out of 55 men, the soldiers allowed 13 to go because of their old age. They took the other 42, aged between 20 and 55, away.²⁴⁰ Ibrahim said: “The army and CTJF didn’t speak to us. We were beaten. The men were beaten. The 42 that were taken, were taken without their clothes. Their clothes were taken to the house of the village head.”²⁴¹

The men were taken to Giwa barracks in Maiduguri. Several relatives went to Maiduguri but did not gain access to them. They told Amnesty International that they paid multiple bribes to a military official and Civilian JTF in Maiduguri, but did not manage to secure their relatives’ release.²⁴² “The officer in charge of arrests [at Giwa barracks] promised that after a week they would be released. But they were not released,”²⁴³ Mustapha Goni (not his real name), whose brother and son were arrested, said.

According to a member of the Civilian JTF, the 42 men were transferred to Kainji military detention facility in Niger state.²⁴⁴ A former detainee from Giwa barracks also confirmed to Amnesty International that the 42 men were taken to Kainji.²⁴⁵

KONDUGA, MARCH 2013

Sadiq Ummar (not his real name), a 35-year-old trader, described to Amnesty International a mass arrest in Konduga, Borno State, in March 2013. He said that soldiers came to the village and told all men to assemble at the market square. He said:

“They said that the purpose was to sort out Boko Haram... There were almost 400 men. They

²⁴⁰ The list with the names of the 42 men is on file with Amnesty International.

²⁴¹ Amnesty International interview, July 2014.

²⁴² Amnesty International interviews, July and December 2014.

²⁴³ Amnesty International interview, December 2014.

²⁴⁴ Amnesty International interview, May 2014.

²⁴⁵ Amnesty International interview, November 2014.

started screening us with someone with a mask, pointing at people who are separated from the rest. They sorted 82 men out and took them away. They said they were taking them to Bama. We did not know what happened to them.”²⁴⁶ The arrested men did not come back.

On 20 June, Bashir Tijani (not his real name), a 35-year-old farmer and cleric, was arrested during another screening in Konduga. He told Amnesty International that 50 soldiers came to the mosque after prayer time. The soldiers told the men to gather at the residence of the district head.

“Many of the people were running but I did not run – I assumed nothing would happen. While we are sitting, they divided us into two separate groups: old men and youths. Then they told the youths to remove their clothes and they started calling one after another. They separated 25 of us and put us in the sun. Out of the 25, 14 of us were separated because we look skinny and have marks on our bodies. They then tied us with rope behind [our back], beat us with sticks and put us in a car to Giwa Barracks.”²⁴⁷

Ten of the 14 men died in custody of thirst, starvation, injuries and illness. Bashir was released a month later, after his relatives paid a bribe.

GWANGE, MAIDUGURI, APRIL 2012

Usman Modu, a 26-year-old scrap metal dealer from Maiduguri, spent almost two and a half years in Giwa barracks. He was arrested in April 2012 in Gwange, Maiduguri, during a screening operation after a Boko Haram attack. All the people who left the mosque were gathered together: the elderly and children were allowed to go home. The men were brought before a “pointer”, who pointed at him and 17 other men. He was first taken to a JTF station called NEPA²⁴⁸ and then to Giwa Barracks.

“One by one we were brought in front of an armoured tank. I never saw anything. People said there was someone inside. When I went up, soldiers said I should go left. They started beating me. One soldier beat me with his gun and I fell down. They tied my hands behind my back and beat me. Then told me to go inside the car. I don't know why I was chosen. I was surprised, I don't know what I have done.”²⁴⁹

The military released Usman with 41 others in November 2014. The 17 men arrested with Usman all died in military custody.

²⁴⁶ Amnesty International interview, November 2014.

²⁴⁷ Amnesty International interview, March 2015. A list with the names of the 14 men arrested is on file with Amnesty International.

²⁴⁸ The station is based in the area close to the Nigeria Electricity Power Authority (NEPA).

²⁴⁹ Amnesty International interview, November 2014



Three men identified as Boko Haram suspects during a 'screening' operation by the Nigerian military in Bama, Borno state, Nigeria, in 2013. The image is a still taken from a video of the arrests. © private.

ARRESTS OF RELATIVES OF BOKO HARAM MEMBERS

The Nigerian military also carried out targeted arrests of relatives of suspected Boko Haram members. Muhammad Bukar (not his real name), for example, told Amnesty International that he was arrested in August 2014 when the military came to his house and asked for his son. "I said my son is not at home, so they carried me with them. They interviewed me about my son. They said he is a Boko Haram member. I denied it and said let him come."

Muhammad Bukar was detained in Guantanamo and released after two weeks. "The army said my son had come so they released me on that condition. I did not see my son."²⁵⁰

A senior military official also told Amnesty International in confidence that the military had arrested women married to senior Boko Haram members and their children. He shared with Amnesty International a document, dated 12 March 2013, which contains a list of 17 women and girls, all apparently married to Boko Haram suspects, who were detained by troops from ORO III in Presidential Lodge, Damaturu in Yobe state. Eleven of them were detained with their children. The document indicates that most were arrested between September and November 2012. Two of them were girls aged 14 and 16.²⁵¹

One of the arrested women was a 25-year-old mother of four, who was thought to be the wife of Boko Haram leader Abubakar Shekau. The husbands of five other detained women were recorded as having been "killed in action". According to the list, there were in total 21 young children aged between two months and seven years. The 14-year-old girl was detained with

²⁵⁰ Amnesty International interview, August 2014; the fate of his son is unknown.

²⁵¹ The list is on file with Amnesty International. The list indicates the names, ages, place and date of arrest, number of children and their age, name of their husband and the "status" of their husband (at large, killed, divorced).

her five-year-old sister. All of the women, girls and children were released in June 2013 following a directive from the Office of the National Security Adviser as part of a Presidential amnesty process.²⁵² The military source also gave Amnesty International a photo taken on the day of their release which showed 17 women and 13 small children.

According to the Defence Headquarters, there were 28 women aged between 10 and 60 detained in Giwa Barracks as of 27 August 2014.²⁵³ These included 13 women believed to be mothers or wives of suspected Boko Haram members.²⁵⁴ In addition four children were detained with their mothers. Nine of the 28 women were girls under the age of 18. Four girls were arrested “after BHT attack near their village”. One 13-year-old girl was arrested in April 2014 after she was abducted and forced to marry a Boko Haram member. The reason for her arrest was, according to Defence Headquarters, that “she was confirmed to have killed 4 people with rifle”.²⁵⁵ A 16-year-old girl detained in Giwa was arrested because “her father is a BHT member, she married a BHT and her Dowry was paid to her in present of her father in BHT Camp”.

UNLAWFUL DETENTION

The vast majority of arrests carried out by the military appear to be entirely arbitrary, often based solely on the dubious word of a paid informant. Military sources repeatedly told Amnesty International that the informants are unreliable and often provide false information in order to get paid.

One officer said: “The military uses civilian informants to get information and arrest suspects. Most of these informants are liars. They give false information to the soldiers who are desperate to simply shoot and kill. Many of the soldiers don’t know about investigations. The soldiers take these rash actions mainly out of frustration, especially after seeing their colleagues killed.”²⁵⁶

Another officer, interviewed independently, confirmed: “The soldiers just pay the informants and go and arrest people or kill them if they try and resist. The soldiers are quite frustrated – their colleagues have been injured or killed. They do not try and confirm whether the person is Boko Haram or not.”²⁵⁷

Instead of handing the arrested men over for further investigation, the military subjects them to further “screenings” in detention. As a result of these screenings, some detainees were released, often after prolonged period in detention, but the process was completely random and arbitrary.

²⁵² Amnesty International interview with a military source, July 2013.

²⁵³ List with names, ages and date of arrest of the women is on file with Amnesty International.

²⁵⁴ Letter from Chief of Defence Staff to Amnesty International, 23 December 2014. The list is on file with Amnesty International. Reasons for their arrest included “she used to communicate with her son who is a BHT member staying in the bush” and “she is married to a confirmed BHT member”.

²⁵⁵ Letter from Chief of Defence Staff to Amnesty International, 23 December 2014. The list is on file with Amnesty International.

²⁵⁶ Amnesty International interview, July 2013.

²⁵⁷ Amnesty International interview, July 2014.

Saleh Bukar (not his real name), told Amnesty International that after he had been detained for three months in Sector Alpha and Presidential Lodge in 2013, the military subjected the detainees to a screening process: "They brought us out and assembled about 20 of us. They paraded all of us one after the other in front of screeners behind a mask. The screeners' faces were covered. Two of them were standing in the detention compound. They shook their head when I was brought to them. The commander asked them to look properly, but they shook their head and I was taken back into my cell".²⁵⁸ Three days later he was released.

Until February 2013, when the amended Terrorism Act was passed, the military was not authorized to arrest and hold people in detention. Since the Terrorism Act became law, the military has the power to arrest and detain, but must bring suspects to court. The court can grant an order for detention of 90 days, which the court can renew for another 90 days, until "the conclusion of investigation and prosecution," which appears to allow indefinite detention.

The military has no authority to charge or try suspects. All suspects should be handed over to the police or the Department of State Security (DSS). However, in a meeting with Amnesty International in July 2013, senior military officers at Defence Headquarters confirmed that the military routinely keeps suspects in their detention centres as they do not trust the security in officially recognized detention facilities such as police stations or prisons.

One senior official openly told Amnesty International at the meeting: "Yes, we keep people in detention, sometimes longer than the court requires or international human rights law requires. If you keep them in prisons, they're not safe, the security or prisons officers are not safe, no one is safe."²⁵⁹

As far as Amnesty International could establish, there are lists with names of suspects and the dates they were arrested, but no proper case files for the suspects. A senior military officer who was deployed in the north-east told Amnesty International that "50% of the detainees don't have any written report on their case. Some of the commanders just use their discretions to deal with detainees or suspects."²⁶⁰

Many former detainees interviewed by Amnesty International spent months, or even years, in unauthorized, unacknowledged detention, without ever being charged and brought before court. The case of Dr Muhammad Mari Abba illustrates this pattern.

²⁵⁸ Amnesty International interview, July 2013.

²⁵⁹ Amnesty International interview, July 2013.

²⁶⁰ Amnesty International interview, July 2013.

ARBITRARY DETENTION OF DR MUHAMMAD MARI ABBA

Two and a half year after his arrest, Dr Muhammad Mari Abba has yet to be brought to a court of law. He remains in incommunicado detention. The 36-year-old medical practitioner and consultant for the World Health Organization was arrested on 20 October 2012 in Yobe state. According to his lawyer, Dr Abba was stopped at a police checkpoint while travelling with three other passengers from Damaturu to Jakusko and Nangere LGAs in Yobe state. The other passengers ran away and were chased by the police; Dr Abba stayed in the car and gave a statement to the police. He was then allowed to go, leaving the car behind. When he later realized that he had left his wallet in the car, he went to Damaturu police station, where he was detained. According to the military, IEDs (improvised explosive devices) were found in the commercial vehicle in which he was travelling.²⁶¹

He was accused of being a Boko Haram member or sympathizer and after a brief period in police detention was transferred to the Presidential Lodge detention centre run by the JTF in Damaturu, Yobe state. A summary of his case file²⁶² gives an insight into some of the causes underlying the failure to protect suspects from arbitrary detention.

The internal military report on his case, seen by Amnesty International, explains that the military detained suspected Boko Haram members without prosecution as both the police and the Department of State Security (DSS) “declined” to prosecute.²⁶³ In October 2012, the headquarters of ORO III asked Army Headquarters what to do with these suspects and suggested transferring them to the Defence Intelligence Agency. Army Headquarters responded in December 2012 that there were no detention facilities available for detainees.²⁶⁴ Consequently, Dr Abba’s case was stalled and, according to the report on his case, “Due to the unavailability of a legal officer in ORO III, the investigation of Dr Abba became ineffectual.”²⁶⁵

On 30 April 2013, his lawyer filed a case before the Federal High Court in Abuja on behalf of Dr Mari Abba, on the basis that his continued detention without trial was unlawful, unconstitutional and illegal. Since then, Dr Abba has neither been allowed to see his lawyer nor allowed to attend court hearings. In September 2013, the court refused to order Dr Abba’s release because he was detained in relation to “an alleged terrorist activity”. The judge said that “by the virtue of the State of Emergency (Certain States of the Federation) Proclamation Act, which has since applied in this jurisdiction, this Court is not empowered to enquire into the alleged detention of the 1st Applicant or to make any of the orders sought in this motion.”²⁶⁶

In May 2013, Dr Abba’s name appeared on a list of 95 suspects recommended for release by the Office of the National Security Adviser.²⁶⁷ Like most of those on the list, he was not released. In July 2013, the military transferred the case back to the Yobe state police for prosecution.²⁶⁸ However, the military acknowledged in

²⁶¹ Amnesty International interviews, July 2013 – December 2014

²⁶² Comprehensive Report on Boko Haram Suspect Dr Muhammad Mari Abba.

²⁶³ Comprehensive Report on Boko Haram Suspect Dr Muhammad Mari Abba: “As a result, confirmed BHTs were being detained without prosecution. Both the Yobe State Police Command and Department of State Services declined from accepting the responsibility of prosecuting confirmed BHTs in own custody.”

²⁶⁴ Comprehensive Report on Boko Haram Suspect Dr Muhammad Mari Abba.

²⁶⁵ Comprehensive Report on Boko Haram Suspect Dr Muhammad Mari Abba.

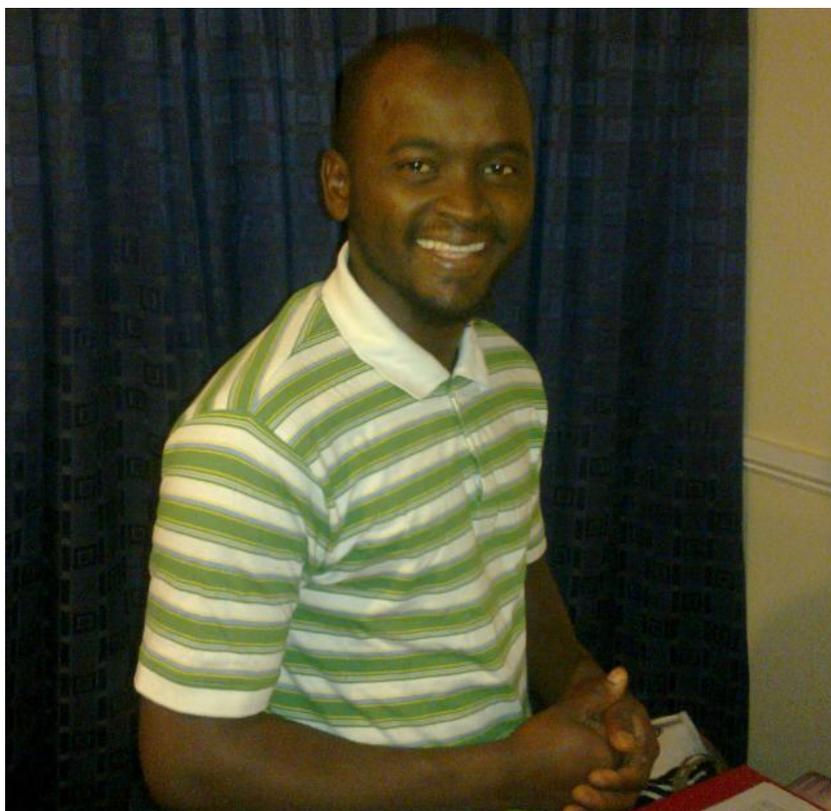
²⁶⁶ Judgement in the Federal High Court of Nigeria, Maiduguri, 16 September 2013.

²⁶⁷ Letter from the National Security Adviser to Chief of Defence Staff entitled Release of detainees, 21 May 2013, NSA/SY/366/S.

²⁶⁸ Comprehensive Report on Boko Haram Suspect Dr Muhammad Mari Abba: “Due to the holabalo being

their internal memo that the evidence against him was not “convincing enough” and there should first have been “further investigation before prosecution”.²⁶⁹

In August 2013, senior officials at Defence Headquarters told Amnesty International that they were going to prosecute Dr Abba. A military source told Amnesty International in March 2015 that he had not been charged or released and remained in incommunicado detention. Amnesty International received information in early 2014 that he had been transferred to Kainji detention centre. According to a military source, Dr Abba was still alive in March 2015.



Dr Mari Abba, arrested on 20 October 2012, is yet to be brought to court. He was recommended for release in May 2013 but till date he is in incommunicado detention. © private

raised by Dr Mari’s case it became necessary to take the case a step further. Consequently, on 24 Jul 13 Dr Mari’s case was transferred back to the Yobe state Police Command”.

²⁶⁹ Comprehensive Report on Boko Haram Suspect Dr Muhammad Mari Abba: “Nevertheless, from the investigation conducted and the questions that came up, Dr Mari cannot be absolved from being a BHT. His case was eventually re-transferred to the Yobe state Police Command to be charged to court for prosecution even though the facts available are not convincing enough. It would have been apt for Dr Mari to have been subjected to further investigation before prosecution.”

While thousands of people have been arrested and held in detention, only a handful have faced trial: since December 2010, 24 court cases have been concluded, involving fewer than 110 defendants.²⁷⁰

The Joint Investigation Team (JIT), a joint team with representatives from the military, the Office of the National Security Adviser and the office of the Attorney General, issued a report in December 2013 showing that most cases against detainees were not ready for prosecution. It raised concern about “the need to have prosecutable case files that will stand the test of judicial requirements” and mentioned that case files were incomplete, the evidence recovered was not registered, and legal requirements were not followed.²⁷¹

In December 2013, the JIT recommended that the military release 270 suspects from military custody, prosecute 512, and further investigate 407.²⁷² In January 2014, President Jonathan ordered the release of 167 suspects.²⁷³

Despite this Presidential order, there are doubts as to whether all 167 suspects were in fact freed from military detention. Some military sources that Amnesty International talked to explained that few of the detainees on the list were actually released. Another military source revealed that officers in Giwa were asking relatives to pay bribes for the release of people on the list. Amnesty International was not able to verify this information or ascertain the release or continued detention of the 167 suspects ordered for release.

As far as Amnesty International could establish, the recommendation regarding the prosecution of 512 suspects has not been implemented either. After the Giwa barracks attack, when almost all the detainees either escaped or were killed by the military, the military reported that most suspects were not “available” and a new review was required.²⁷⁴

In August 2014 a second JIT²⁷⁵ submitted its report to the Office of the Attorney General. The Attorney General’s Office told Amnesty International that the JIT in its second round of investigations had reviewed more than 500 cases, of which 350 were recommended for prosecution and 147 for release.²⁷⁶

Amnesty International was informed by the Attorney General’s Office in September 2014 that a committee had been set up to review cases recommended by the JIT’s second report and to prosecute those cases that “are ready”. It was claimed that by October 2014, those who were detained unlawfully would be released. In November 2014, more than 160 detainees were

²⁷⁰ ICC-OTP report: between December 2010 and October 2013, 21 cases for alleged involvement in Boko Haram crimes were concluded before Nigerian courts involving 96 defendants; according to media reports, since October 2013, a further 3 cases involving 6 people were concluded.

²⁷¹ JIT report, August 2013.

²⁷² JIT report, December 2013.

²⁷³ Statement released by Defence Headquarters on 10 January 2014.

²⁷⁴ Amnesty International meeting with the Office of the Attorney General, September 2014.

²⁷⁵ The second JIT consisted of representatives of the Ministry of Justice, the National Immigration Service, the police, the Department of State Security, the navy, the air force and the army.

²⁷⁶ Amnesty International meeting with representatives of the office of the Attorney General, September 2014.

released. Some had been detained in Giwa Barracks since 2012.²⁷⁷

In September 2014, Amnesty International informed the Office of the Attorney General that the JIT reports appear to address just a fraction of the total number of people held in unlawful military detention. While commitments were made to Amnesty International to investigate this matter, so far no concrete steps seem to have been taken.²⁷⁸

ENFORCED DISAPPEARANCES

“On the day I returned home after my release, my people were already planning my funeral because they had given up searching for me.”²⁷⁹ Alhaji Dani (not his real name), who was among 300 people arrested at Baga road market in Maiduguri on 29 May 2013.

Amnesty International research suggests that many detainees have become victims of enforced disappearance. In some cases, it is difficult to establish whether the cases qualify as “disappearances” as the families have been too afraid to search for their missing relatives, but it is undeniable that the fate and whereabouts of thousands of people arrested by the military in north-east Nigeria remain unknown.

Amnesty International has received a list of names and pictures of more than 1,200 people arrested in Borno state between 2011 and 2014 whose whereabouts, according to several sources and some relatives of the victims, remain unknown. The list was compiled by a human rights defender who asked relatives of people arrested by the military to come and register their names. This list is by no means a comprehensive compilation of all missing people; rather it is one measure of the massive impact the operations of the military and police have had in Borno state.²⁸⁰

Several cases of enforced disappearances documented by Amnesty International illustrate the pattern.

ENFORCED DISAPPEARANCE OF AHMED BELLO

Soldiers arrested Ahmed Bello (not his real name) in July 2012 during a cordon-and-search operation following a bombing in the customs area in Maiduguri. His mother and brother told Amnesty International that on that day Ahmed went to school to pay the exam fees, but never returned home. His mother said, “We went searching for him. He was not among the casualties [after the bombing]. Someone came from the barracks and said he was arrested.” A former detainee who was released from Giwa barracks told his family about his arrest.

The relatives said the family did not go to the barracks, fearing they too would be arrested. For the next eight months, they had no information about Ahmed’s fate and whereabouts. Then, another man released from Giwa came to the family that he had seen Ahmed in

²⁷⁷ Amnesty International interviews, November 2014 – May 2015.

²⁷⁸ Amnesty International meeting with the office of the Attorney General, September 2014.

²⁷⁹ Amnesty International interview, July 2013.

²⁸⁰ List is on file with Amnesty International.

detention there, and that Ahmed had asked him to notify his family.

In the following year, four people who had been released from Giwa came to talk to the family about Ahmed Bello.

After the Giwa barracks attack in March 2014, a woman from Jiddari Polo came to see the family to tell them that Ahmed, who had escaped from the barracks and was injured, came to her house and she gave him clothes, slippers and food. Then Civilian JTF members came and threatened to arrest anyone who was helping the escaped detainees. Later the army came and everyone, including Ahmed ran away.

Ahmed's mother told Amnesty International that the family immediately went to Jiddari :

"They killed a lot of people in that place. We didn't get him. There is nothing to do. That time when we went to Jiddari we saw more than 300 coffin [corpses] and we could not see him. The army refused to let us check. The army told us to go away. All the bodies were gathered in one place. The army tell us not to go to the place. They refused us to check."

To this day, Ahmed Bello's family does not know whether he was among those killed in Jiddari or whether he was detained again and is held in unacknowledged detention.²⁸¹

THE ENFORCED DISAPPEARANCE OF MODU ABUBAKAR

In June 2013, a joint team of DSS and army came to arrest Modu Abubakar (not his real name), a 23-year-old student, at his house in Yola. He was not at home and so they threatened to arrest his mother. She promised that they would report as soon as he was back. Later that day his father accompanied Modu to the DSS station in Yola, where the DSS accused Modu of "offering suspicious people a place to stay" and detained him. His father repeatedly called DSS but never received any information. "After one month, an assistant director of DSS called and said I should come. He asked for N150,000. I said no, where can I get that money? He said I should come back when I get the money. There was a time I went there, he said he would lock me up."²⁸² After Modu's father was told his son was transferred he also searched the nearby prisons but could not find him and all security agencies denied knowing anything about his case.

According to information obtained by Amnesty International, as of August 2013, Modu was alive and in military detention. A photo showing Modu holding a placard with his name, was among 81 photos of detainees in 23 Armoured Brigade military detention, which a senior military officer gave to Amnesty International.²⁸³ All were taken in the detention facility, the officer said. According to the metadata on the photo, it was taken on 7 August 2013. To date, however, Modu has not been released and the family has not received any further information regarding his fate or whereabouts.

A senior military source with knowledge about Yola detention facility told Amnesty

²⁸¹ Amnesty International interview, July 2014.

²⁸² Amnesty International interview, May 2015.

²⁸³ All photos are on file with Amnesty International.

International that DSS has handed over many suspects to the military in Yola. He said many of these suspects had died in custody.²⁸⁴

UNLAWFUL ARREST AND DETENTION OF ALHAJI BUKAR YAGANAMI

On 19 January 2013, the JTF Operation Restore Order I arrested Alhaji Bukar Yaganami, a 50-year-old police contractor in Maiduguri, in his home. The military took him to Giwa and returned to his house later that day for a search. His health deteriorated while in custody as he has diabetes and hypertension.

Amnesty International wrote to the Commander of the JTF on 10 June 2013 to request that Alhaji be charged or released from detention, copying the Chief Defence Staff, the Attorney General of the Federation and the National Security Advisor. A reminder was sent on 11 October 2013. No response was received.

His lawyer requested bail on 18 November 2013, but it was refused. On 22 January 2014, his lawyer filed a case in court requesting his release.²⁸⁵ Alhaji escaped after the attack on Giwa Barracks on 14 March 2014 and immediately reported himself at DSS in Maiduguri. His family went there and saw him. They were told that DSS would release him, but he was not released.

On 10 July 2014, the judge ordered that Alhaji's arrest and detention was illegal and unconstitutional and that he should be released on bail.²⁸⁶ The judge signed a warrant requesting the DSS to produce Alhaji at the Federal High Court on 11 July 2014.²⁸⁷ In a letter dated 25 July 2014 and sent to the DSS in Maiduguri, the solicitors to the Attorney General of the Federation and Minister of Justice stated they had no objection to his release.²⁸⁸ Still, he was not released.

In October 2014 the family was told to come to DSS and sign his release papers. But instead of releasing him, the DSS handed him over to the military. A family member told Amnesty International: "They said we can't go with him, that the military would take him. They were coming out of the gate, in a black hilux with soldiers inside, tinted glass, no number plate. The soldiers didn't say anything. We didn't know where they were taking him, until after one month, we found out through some people that were released."²⁸⁹ The family continued to try and secure his release in court. "The military came to court. They said they don't know him, don't know who he is. The court ordered his release." The family is currently seeking an enforcement of the court order to release Alhaji.

ENFORCED DISAPPEARANCE OF DUNGUS LADAN

On 1 May 2012, around midnight, Nigerian soldiers arrested 37-year-old Dungus Ladan (not his real name), at his home in Maiduguri. Fatima, Dungus' wife, told Amnesty International

²⁸⁴ Amnesty International interview, May 2015.

²⁸⁵ The case was filed the Federal High Court of Nigeria, Maiduguri Judicial Division. Suit number: FHC/MG/CS/2/2014. Respondents are the Attorney General of the Federation and Minister of Justice, Minister for Defence, Chief of Army Staff, the Sector Commander, JTF Maiduguri.

²⁸⁶ Court order is on file with Amnesty International.

²⁸⁷ Warrant is on file with Amnesty International.

²⁸⁸ Letter is on file with Amnesty International.

²⁸⁹ Amnesty International interview, May 2015.

that the soldiers promised to just take him for an interrogation that should not last more than a few hours.

When her husband did not return, she said, his father went on 3 May to Giwa barracks to check what had happened. Soldiers told him that Dungus had already been released. When he still did not return, the father went back again to the barracks, where soldiers told him that he should come back the next day to bail out his son. The following day, several relatives went together and gave the soldiers “what they could,” and the soldiers again promised to release Dungus that day. His wife said that the soldiers kept asking for money, and the family kept paying, but Dungus was never released.²⁹⁰

In February 2014, his father saw Dungus in the detention facility; they spoke briefly. Dungus said he had been framed by some people who owed him money and they arranged for him to be arrested and detained. Since then, his family has not seen him again; soldiers at Giwa barracks have told them he is not there.²⁹¹

ENFORCED DISAPPEARANCE OF IBRAHIM

In September 2013, twenty-five year old Ibrahim, who just started his own carpet trading business, was travelling by bus from Maidugri to Dikwa market. Fellow passengers later told his father that at a military checkpoint in New Marte (92 km from Maiduguri), the military stopped the bus and took him away, hands tied behind his back, accusing him of being Boko Haram member.

Ibrahim’s father told Amnesty International that he inquired in New Marte and the military told him that this son had been taken to Giwa barracks. At father’s request, a local Civilian JTF member checked at the barracks and confirmed that Ibrahim was being held there. He said he saw him being beaten, with his hands tied.²⁹²

After the Giwa barracks attack, another member of the Civilian JTF told Ibrahim’s family that they had seen him as he fled. “They called on us and asked if he has come back home because they had seen him at the barracks. But he didn’t come back home. Between the two incidents [that he was seen by others] we had had no information.”²⁹³ As of this writing, Ibrahim’s whereabouts remain unknown.

ENFORCED DISAPPEARANCE OF MUSA, ALI, UMAR, MOHAMMED AND ABUBAKAR KANKARA

Musa Kankara (not his real name), a 30-year-old butcher from Maiduguri, was arrested by JTF soldiers in March 2012 during a cordon-and-search operation in the custom area of Maiduguri. The military took his younger brother, Ali, as well, the family told Amnesty International. Their parents went looking for them at Giwa barracks, but were told not to come back again. From time to time, his family heard from released detainees that they were still alive. Three months after their arrest, one of the released detainees told the family that Ali had died in detention.

²⁹⁰ Amnesty International interview, June 2014.

²⁹¹ Amnesty International interview, April 2015.

²⁹² Amnesty International interview, July 2014.

²⁹³ Amnesty International interview, June 2014.

Musa returned home on 14 March 2014, having escaped after the Giwa barracks attack. However, according to his relatives, that same day, Civilian JTF members and then soldiers came to his house and re-arrested him. A Civilian JTF member said that they took him to Sector 8, a military station in Maiduguri. His brothers went there but could not see him; the soldiers refused to give them any information.

In a separate incident in June 2014, the military arrested two of Musa's other brothers, Umar and Muhammed. A third brother, Abubakar, went to the detention centre to testify that they were not members of Boko Haram; he was immediately arrested as well. Out of fear, the relatives did not ask further questions. Since then, there has been no news, and the whereabouts and fate of the four brothers remain unknown.²⁹⁴

ENFORCED DISAPPEARANCE AND DEATH IN CUSTODY OF AUWAL KYARI

Auwal Kyari (not his real name), a 21-year-old student at Rama Polytechnic school, was among 122 people arrested on 18 May 2013 during a cordon-and-search operation in Gwange, Sabon Gari in Maiduguri. His father, Musa Kyari (not his real name), told Amnesty International that the day after his son's arrest, he went to a JTF station called NEPA²⁹⁵ where a military officer confirmed that his son had been arrested and that he had seen him in NEPA. Musa Kyari was told to return later that day; he was then told "your son is a Boko Haram member".

His father was not able to see his son, even though he asked a lawyer to intervene. For six months he had no information about his son's fate or whereabouts, then a military officer confidentially told him that he had seen his son in Giwa, and that he was not well. After the Giwa barracks attack, an escapee came to his house and told him that his son had died in custody. To date, however, the family has not received any official confirmation of his death or information on his whereabouts.²⁹⁶

TORTURE AND OTHER ILL-TREATMENT

Amnesty International has previously documented a widespread pattern of torture and ill-treatment in both police and military custody across Nigeria. The report, *'Welcome to hell fire', torture in Nigeria*, published in September 2014, concluded that torture and other ill-treatment in the north-east of Nigeria have increased over the last few years as the conflict has escalated. Former detainees interviewed by Amnesty International described a wide range of torture methods used by the military, including beatings; shootings; nail and teeth extractions; and rape and other sexual violence; as well as conditions in detention that amount to ill-treatment, at a minimum.²⁹⁷

Information obtained by Amnesty International since the publication of the report shows that the pattern of torture in military custody in the north-east continues unabated.

Amnesty International has received consistent reports as well as video evidence of torture and

²⁹⁴ Amnesty International interview, July 2014.

²⁹⁵ The station is based in the area close to the Nigeria Electricity Power Authority (NEPA).

²⁹⁶ Amnesty International interview, July 2014.

²⁹⁷ Amnesty International, *'Welcome to hell fire', torture in Nigeria*, (Index: AFR 44/021/2014), September 2014.

other forms of ill-treatment by the military during and after mass arrests. A large number of those arrested appear to have been subjected to torture; in particular, suspects are usually beaten during “screening” operations, during arrests and following arrests while in detention. Amnesty International has received 90 videos which show soldiers and Civilian JTF members beating suspects, making them lie down and walking on their backs, threatening them, humiliating them, tying their arms and making them roll in the mud.

Amnesty International has been told repeatedly that suspects are beaten by soldiers when they arrive at detention centres. Suspects are also frequently tortured during interrogation by being beaten, suspended from metal poles and shocked with electric batons. Many suspects die as a result.

Virtually all detainees are held in extremely poor conditions of detention that amount at a minimum to ill-treatment and may amount to torture, especially considering the large number of detainees who have died from suffocation, starvation and illness. All vital safeguards against torture such as access to lawyers, relatives and doctors and bringing suspects before a judge are routinely flouted by the military.



Photos of men and boys who were arrested by the military and whose whereabouts are currently unknown. © Private

INDIVIDUAL AND COMMAND RESPONSIBILITY

INDIVIDUAL AND COMMAND RESPONSIBILITY FOR WAR CRIMES

Military officers who ran the operations and were in charge of detention facilities in north-east Nigeria, as well as their commanders at the Army Staff and Defence Staff, should be investigated for potential responsibility for war crimes of murder, enforced disappearances and torture. They should also be investigated for the crimes against humanity of imprisonment, enforced disappearance, torture and murder.

Those who gave orders or directly participated in the commission of these crimes should be investigated on the basis of their individual responsibility. Superior officers could also bear responsibility for violations committed by units under their command in accordance with the doctrine of command responsibility, even if they did not directly participate in or give orders to commit the violations, but knew or should have known about the crimes and failed to prevent them or to submit the matter for prosecution.²⁹⁸

Amnesty International therefore calls for the investigation of those within the chain of command of the military in Nigeria who either were directly responsible for the troops committing the crimes or who knew or should have known and took no steps to prevent or suppress the crimes. Specifically, military officers who ran the operations and were in charge of detention facilities in north-east Nigeria, as well as their commanders at the Army Headquarters and Defence Headquarters, should be investigated for responsibility for the war crimes of murder, enforced disappearance and torture.

Documentary evidence presented in this report clearly shows that the senior military leadership was fully informed (by field commanders, investigative commissions, and external sources) of the nature and scale of the crimes being committed and failed to take any meaningful measures to stop the violations. As far as we are aware these officers have taken no steps to ensure that investigations are instituted, aimed at bringing the perpetrators to justice.

The evidence that Amnesty International has received suggests that the majority of victims of military abuses in the north-east were civilians and there is sufficient evidence to consider whether crimes against humanity have been committed. The Office of the Prosecutor of the International Criminal Court has previously held that there was insufficient evidence to find that the Nigerian military had directed a widespread or systematic attack against the civilian population in north-east Nigeria. However, Amnesty International believes that the evidence contained in this report and submitted separately to the Office of the Prosecutor is sufficient to reopen this issue, particularly considering evidence that there was a widespread as well as systematic targeting of young men and boys; that the victims were not investigated, charged or granted due process rights; that thousands died through starvation, asphyxiation and thirst

²⁹⁸ Rome Statute, article 28.

or were extrajudicially executed; that many who died in military custody were arrested in 2011 and 2012 before the situation escalated into a non-international armed conflict; that orders to annihilate Boko Haram did not make a clear distinction between Boko Haram and civilian supporters; and that attacks continued despite mounting evidence (at least after the Giwa prison escape) that the majority of victims were not members of Boko Haram.

Amnesty International believes that the evidence contained in this report and other documents that the organization has shared with the Office of the Prosecutor is sufficient to initiate an investigation into war crimes committed by the Nigerian military forces and specifically into the individual and command responsibility of the military commanders named below.

Amnesty International believes that the following military officers should be investigated for potential individual or command responsibility for the war crimes of murder, enforced disappearance and torture detailed in this report:

- **Major General John A.H. Ewansiha.** He was General Officer Commanding (GOC) of Operation Restore Order I (ORO) and Operation BOYONA between January 2012 and August 2013. As GOC of ORO and Operation BOYONA, he was informed about the arbitrary arrest and unlawful detention of thousands of people in inhumane conditions, the deaths in custody of large numbers of detainees and extrajudicial executions in areas under his command in Borno, Yobe, and Adamawa states. He received regular reports indicating the commission of these crimes by his subordinates and failed to take measures to stop and prevent them or to bring those responsible to account. In August 2013, he became Chief of Standards and Evaluation at Army Headquarters and Chief of Training and Operations at Army Headquarters.
- **Major General Obida T Ethnan.** He was Commander of 7 Division from 22 August 2013 until 1 January 2014. Major General Ethnan took over the command of the military operations in Adamawa, Borno and Yobe states in August 2013 from Major General Ewansiha. During this period, Amnesty International continued to document arbitrary arrests and unlawful detention of thousands of people in inhumane conditions, the deaths in custody of large numbers of detainees and extrajudicial executions committed by Nigerian troops under his command.
- **Major General Ahmadu Mohammed.** He was Commander of 7 Division from 24 February until 16 May 2014. During this period, Amnesty International continued to document arbitrary arrests and unlawful detention of thousands of people in inhumane conditions, the deaths in custody of large numbers of detainees and extrajudicial executions committed by Nigerian troops under his command. In addition, Major General Ahmadu Mohammed was in charge of military operations when, in the aftermath of a Boko Haram attack on Giwa Barracks, Nigerian military executed more than 640 former detainees.
- **Brigadier General Austin O. Edokpayi.** He was in command of the Multinational Joint Task Force based in Baga from at least April 2013 until December 2013 where Nigerian soldiers were responsible for arbitrary arrests and unlawful

detention, the extrajudicial executions of more than 185 people in April 2013, and deaths in custody in Baga detention facility.

- **Brigadier General Rufus O. Bamigboye.** He was Commander of the 21 Armoured Brigade, stationed in Giwa barracks from February 2012 till September 2013. He was in charge of the barracks during the period when at least 5,000 detainees died in custody, and when torture and ill-treatment were used routinely. In December 2013, he was promoted to Deputy Director of Operations at Defence Headquarters.

In addition, Amnesty International believes that the following high-level military commanders should be investigated for their potential command responsibility for crimes committed by their subordinates given that they knew or should have known about the commission of the crimes, and failed to take adequate action:

- **Lt. General Azubuike Ihejirika.** He was Chief of Army Staff from September 2010 until he retired in January 2014.
- **Admiral Ola Sa'ad Ibrahim.** He was Chief of Defence Staff from 4 October 2012 until 16 January 2014.
- **Air Chief Marshal Alex Badeh.** He was Chief of Defence Staff from 16 January 2014 to time of writing.
- **Lt. General Ken Minimah.** He was Chief of Army Staff from 16 January 2014 to time of writing.

KNOWLEDGE THAT CRIMES WERE BEING COMMITTED

There is little doubt that the military command at all levels, including the Chief of Army Staff and the Chief of Defence Staff, was regularly informed of the operations conducted in north-east Nigeria, including large-scale arrests, detention, and killings, and the situation in detention facilities, including the high rate of deaths in custody.

Army Headquarters and Defence Headquarters also sent teams to the states under emergency rule to assess and monitor the operations. For example, the Joint Investigation Team (JIT), which submitted its report in December 2013, aimed to inform the “[Chief of Defence Staff] on the immediate activities of the DHQ JIT [Defence Headquarters Joint Investigation Team] with a view to forwarding its immediate requirements to ASA [appropriate superior authority].”²⁹⁹

INTERNAL REPORTS ON DETENTION CONDITIONS AND DEATHS IN CUSTODY

Amnesty International analysed more than 500 daily and weekly situation reports that were sent from the General Officers Commanding (GOCs) to the Defence and Army Headquarters.

From November 2012 to August 2013, in their daily reports to Defence Headquarters, the General Officers Commanding (GOCs) of operations reported the deaths of detainees following the arrests.

²⁹⁹ Joint Investigation Team (OP BOYONA), Preliminary report on the activities of the joint investigation team, August 2013, DHQ/ABJ/40/3/4/JIT.

For example, a message from the headquarters of the Multinational JTF to Defence Headquarters and Army Headquarters states that “Babagana Abba (aka Omo Mai Engine), Mustapha Alhaji Modu and Sanda Sale were arrested on 16 May [2013] by the MNJTF.”³⁰⁰ On 20 May, JTF ORO reported that Babagana Abba and Sande Sale had died on 19 May.³⁰¹ On 22 May, the Multinational JTF reported that Mustapha Alhaji Modu had died the day before.³⁰²

According to a message from the Multinational JTF headquarters to Defence Headquarters and Army Headquarters, Kabiru Muhammed, Mohammed Isiya (aka Gurugu), Hassan Mohammed (aka Mai Shai), Baba Abacha, Mohammed Bello, and Sa’ad Ibrahim were arrested on 31 March 2013 in Kaukuri; they were suspected of being “behind terrorist act Kaukiri island”.³⁰³ On 5 April, the Multinational JTF reported to Defence Headquarters and Army Headquarters that Kabiru Muhammed, Hassan Mohammed and Baba Abacha died on 2, 3 and 4 April 2013.³⁰⁴ On 6 April, the Multinational JTF headquarters reported that Mohammed Bello had died.³⁰⁵ On 12 April, the Multinational JTF headquarters reported that Sa’ad Ibrahim also died on 5 April.³⁰⁶

In another field report sent on 27 August 2013, the Multinational JTF informs the Headquarters of Division 7 of the death of four Boko Haram suspects. On 20 August, “BHT Saminu Abdoullahi and Modu Bashir both linked to the killing of 38 people in Dumba vill were arrested and consequently KIA [killed in action]”. Bakura Ali and Kaulama Mallam were arrested and killed on 21 August, “related to attack on tps in Malam Fatori, on 4/8/2013”.³⁰⁷

Other reports did not include the names, but only referred to the number of detainees who died each day. One such report, sent from the headquarters of JTF ORO on 15 March 2013 to Defence Headquarters and Army Headquarters, stated, for example: “ [On 9 March 2013 at 14:30], 7 BHT suspects in own detention facility died after brief illness... [On 10 March 2013 at 13:23], 7 BHT suspect in own detention facility died after brief illness... [On 11 March 2013 at about 18:06], 7 BHT suspects in own detention facility died after brief illness...[On 12 March 2013 at about 15:00], 8 BHT suspect in own detention facility died after brief illness... [On 14 March 2013 at about 16:10], 10 BHT suspect in own detention

³⁰⁰ Weekly intelligence and security summary, from MNJTF to DHQ and AHQ (DATOPS), 17 May 2013, MNJTF/G3/240/05, G3/295.

³⁰¹ Daily situation report from Headquarters MNJTF to DHQ, AHQ dated 20 May 2013, MNJTF/G3/240/04, G3/300.

³⁰² Daily situation report from Headquarters MNJTF to DHQ, AHQ (DATOPS), dated 22 May 2013, MNJTF/G3/240/04, G3/303.

³⁰³ Weekly security and intelligence summary from MNJTF to DHQ and AHQ DATOPS, dated 5 April 2013, MNJTF/G3/240/05, G3/229.

³⁰⁴ Weekly security and intelligence summary from MNJTF to DHQ and AHQ DATOPS, dated 5 April 2013.

³⁰⁵ Daily site report from MNJTF to Defence Headquarters and Army headquarters DATOPS, dated 6 April 2013.

³⁰⁶ Weekly intelligence and security summary, from MNJTF to DQH and AHQ, dated 12 April 2013; Sa’ad Ibrahim is referred to as Sa’adu Abdullahi.

³⁰⁷ Weekly intelligence and security summary, from Headquarters MNJTF to Headquarters 7 Division, dated 27 August 2013, copy to Defence Headquarters, Army headquarters, and others.

facility died after brief illness.”³⁰⁸

Another field report from JTF ORO headquarters to Defence Headquarters stated: “[On 23 March 2013 at 14:49], 6 suspected BHT in own detention facility [Giwa] died after brief illness. [On 25 March 2013 at 16:13], 8 suspected BHT in own detention facility died after brief illness. [On 27 March 2013 at 14:57], 5 suspected BHT in own detention facility died after brief illness.”³⁰⁹

From August 2013, information on deaths in custody was no longer systematically recorded. A military source confirmed to Amnesty International that after August 2013 deaths in custody were no longer included in the field reports: “They don’t include death in custody any more. People at the top saw it but refused to do anything about it...They cover up by the chain of command. They don’t care what is going on.”³¹⁰

Field commanders also reported to Defence Headquarters that facilities were overstretched, and that overcrowding, combined with the use of chemicals for disinfection, contributed to the rise in custodial deaths.

For example, the Headquarters of JTF ORO in Maiduguri wrote to Defence Headquarters in January 2012 informing them that the detention facility was overcrowded and requesting a transfer of detainees. Apparently no action was taken, as three reminders were sent on 23 February, 17 June and 8 July 2012.³¹¹ On 31 July 2012, the Commander of ORO and BOYONA, Major General JAH Ewansiha, wrote to Defence Headquarters, copying Army Headquarters for information, stating that the detention facility was “overstretched” and expressing concern about the threat of a potential Boko Haram attack. He further stated that “There is gradual outbreak of epidemic in the Barracks as a result of constant fumigation of the Detention and Interrogation facilities.”³¹²

Another reminder was sent on 5 September 2012, saying that “the resultant overcrowding of the facility could lead to an outbreak of epidemic in the detention facility and the barracks, as death of detainees is gradually on the rise.”³¹³ He requested a transfer of the detainees. It is unclear if any response was sent, but no meaningful action appears to have been taken in

³⁰⁸ Weekly site report from HQ JTF Operation Restore Order to DHQ, info to AHQ, NHQ, HQ NAF, dated 15 March 2013, HQ JTF/ORO/J3/240/19.

³⁰⁹ Weekly site report from HQ JTF Operation Restore Order to DHQ, Info: AHQ, NHQ, HQ NAF, dated 29 March 2013, HQ/ JTF/ORO/J3/240/19, J3-242.

³¹⁰ Amnesty International interview, July 2014.

³¹¹ Reminder on transfer of Boko Haram sect members to secure detention facility, HQ JTF/ORO/J3/240/16, 31 July 2012, signed by Major General JAH Ewansiha, Commander. Sent to DHQ for action; AHQ for information Reminder on transfer of Boko Haram sect members to secure detention facility, HQ JTF/ORO/J3/240/16, 31 July 2012, signed by Major General JAH Ewansiha, Commander, dated 5 September 2012, HQ/JTF/ORO/J3/240/18.

³¹² Reminder on transfer of Boko Haram sect members to secure detention facility, HQ JTF/ORO/J3/240/16, 31 July 2012, signed by Major General JAH Ewansiha, Commander. Sent to DHQ for action; AHQ for information.

³¹³ Reminder on transfer of Boko Haram Sect members to a more secure detention facility, 5 September 2012, letter signed by Col B Abdulmalik, for Commander, to DHQ and for information to AHQ. It is unclear if death in custody was raised in earlier communications.

response to these requests and there was no significant transfer of detainees to alleviate the overcrowding.

A senior military source confirmed to Amnesty International that several officers had repeatedly requested the transfer of the detainees as there was no budget for feeding them: "In mid-2013, several officers raised the issue of death in custody with the Chief of Defence Staff. They asked for prisons, to come with a suggestion to shift them. It did not happen. If they die it is better for them."³¹⁴

ASSESSMENT VISITS TO DETENTION FACILITIES

Defence Headquarters sent teams on several occasions to the military facilities in the north-east to assess operations "and authenticate data". For example, in June 2013, the Defence Intelligence Agency (DIA) sent a team to HQ Operation BOYONA and requested detailed information about arms and ammunition, communications equipment, casualties on both sides and "categories of arrested insurgents and any other issue of significance".³¹⁵ In August 2013, the Chief of Defence Staff set up a committee to review the first 90 days of Operation BOYONA.³¹⁶ In September 2013, Defence Headquarters sent an assessment team, led by a Defence Headquarters Chief of Training and Operations, to Division 7 and the Multinational JTF.³¹⁷

Some of the reports from these assessment visits mention the high death rate of detainees in military custody. For example, in January 2013, a team from Defence Headquarters visited the headquarters of JTF ORO and the Multinational JTF as part of a periodic assessment of the operations. The team noted about Giwa: "One of the facilities [Giwa] was improvised and has a capacity for 100 detainees. However, over 1,000 detainees are currently accommodated in it. The resultant overcrowding of the facility could lead to an outbreak of epidemic not only in the detention quarter but also in the barracks, as death of detainees is on the rise averaging 2 detainees per day. In addition to this health hazard, there is the continuous threat by the BHTs [Boko Haram terrorists] to attack the facility in order to free its detained members."³¹⁸

The team concluded that "the overcrowded condition and location of the detention facility at the barely fenced 21 Bde Barracks could expose the area to health hazards and BHT [Boko Haram terrorists] threat. Consequently, it is suggested that the detainees be relocated to a standard and more secure detention facility outside the ORO's AOR [Area of

³¹⁴ Amnesty International interview, November 2014.

³¹⁵ Message from DIA to HQ JTF OP BOYONA, HQ MNJTF, HQ 23 Bde, HQ JTF ORO III, for info: Office of CDS, CDI. DTOPS/187.

³¹⁶ Request for inputs in the conduct of Operation BOYONA for the first 90 days, DHQ/DOPP/801/31/POL, dated 27 August 2013, The terms of reference included "Establish own, civilian and insurgents casualty" and "Any other advice that may assist ASA for conduct of future joint operations." The committee was expected to submit by 30 August 2013.

³¹⁷ Message from DHQ to AHQ and MNJTF, info to Office of CDS, NHQ, HQNAF, 4 September 2013, DHQ/261/OPS.

³¹⁸ Report of Defence Headquarters Operations Visit to Joint Task Force Operation Restore Order and Multi National Joint Task Force 22-25 January 2013. The report later downplays the figure of two deaths a day, saying: "some have died in detention due to illness and overcrowded detention facility at Giwa Barracks."

Responsibility].”³¹⁹ As far as Amnesty International could verify, this recommendation was not implemented. Only a few detainees, including high profile Boko Haram commanders and suspects were transferred while most other detainees remained in Giwa barracks.³²⁰

More than six months later, in August 2013, the Joint Investigation Team (JIT), in their preliminary report to the Chief of Defence Staff also warned about the high death rate: “In Giwa barracks detention facilities, the JIT sighted the detainees in overcrowded holdings. There were over 1,300 detainees (including 17 women and 11 children) in the facilities kept in less than normal condition which results in congestion with possibilities of rapid spread of infectious diseases. Death rate is therefore high since many were on various types of drug abuse and were turned in with wounds sustained during operations. Most of the older detainees seem distressed and present tendencies of psychiatric disorder.”³²¹

The JIT recommended that the “21 Bde Medical Team would need to assist in assessing and advising on the minimum mental requirement for interrogation. It is envisaged that the outcome of the clinical assessment could also reduce the death rate of the detainees thereby enhancing the product of the JIT investigation drive.”³²²

The JIT also observed that in Damaturu more than 200 detainees were held in conditions “observed to be less than ideal”. The JIT stated, however, that compared to Giwa barracks, there are “fewer in number per cell” resulting in “better mental and physical state of health.”

The JIT report shows that there was more concern about the ability to interrogate the suspects than about their health and well-being. The report further stated: “DHQ JIT observed that the condition of the detainees was abnormal. However, the detainees hardly deserved any sympathy since they undertook the destruction of prisons that could have properly accommodated them. Nevertheless, the condition of the detainees require to be upgraded in order to raise their physical and mental status to enable them to positively respond to the investigation processes.”³²³

Despite senior military officials’ knowledge of overcrowding and the high death rate, nothing was done to improve the situation. As far as Amnesty International could ascertain, Defence Headquarters did not take any action to reduce the death rate. The main reason why the death rate reduced was because most detainees escaped or were killed after Boko Haram attacked Giwa Barracks in March 2014. Amnesty International has requested a formal response how many detainees died in custody since 2012, and the Chief of Defence Staff responded that 17 detainees were reported to have died. He further stated “there is no

³¹⁹ Report of Defence Headquarters Operations Visit to Joint Task Force Operation Restore Order and Multi National Joint Task Force 22-25 January 2013.

³²⁰ Amnesty International interviews with military sources and former detainees, July 2014 – March 2015.

³²¹ Joint Investigation Team (OP BOYONA), Preliminary report on the activities of the joint investigation team, August 2013, DHQ/ABJ/40/3/4/JIT; the JIT “visited and conducted on-the-spot assessment of detainees and the detention facilities at the Giwa Barracks, Maiduguri and the Presidential Lodge in Damaturu.”

³²² Ibid.

³²³ Ibid.

overcrowding at the Giwa Barracks detention facility when the Panel [Panel of Inquiry to Investigate the Circumstances Surrounding the Allegation of Extra Judicial Killings and Mass Arrest by the Nigerian Military and Members of the Youth Vigilante Group in Operation ZAMAN LAFIYA Area of Responsibility] visited [on 17 August 2014]. The detainees were fed 3 times daily. They were served the same food with the soldiers who guard them.” He further stated that the “detention facilities are standard and comparable to any other such facilities in the developing world.”³²⁴

INTERNAL REPORTS ON MASS ARRESTS

Internal military reports examined by Amnesty International show that field commanders regularly informed Defence Headquarters and Army Headquarters about the number of people arrested during cordon-and-search operations. The reports usually label those arrested as “confirmed Boko Haram members” or “confirmed Boko Haram terrorists,” but do not reference any evidence against them and at times indicate, on the contrary, that no evidence was found.

A field report dated 18 July 2013, sent from JTF Headquarters ORO to Defence Headquarters, for instance, states that on 18 July 2013, 73 people were arrested by the JTF ORO I in a cordon-and-search operation in Aljajeri.³²⁵

One field report states that on 8 March 2013, 104 “confirmed Boko Haram members” were arrested by soldiers of JTF ORO I during a cordon-and-search operation in Maiduguri.³²⁶

Another field report from Headquarters JTF to Defence Headquarters shows that on 29 March 2013, along the Gubio-Baga road, Maiduguri, 34 “confirmed Boko Haram members” were arrested.³²⁷ On that same day, a further 41 “confirmed BHT” were arrested at London Chiki, Jagwal market and Ummarari.

Similarly, reports reveal that on 16 June 2013 in Gwanze, the Civilian JTF arrested 35 people who were then handed over to the JTF ORO,³²⁸ and on 28 June 2013, 17 people were arrested by troops at a roadblock, while Civilian JTF members arrested and handed over a further 25 people.³²⁹

The reports do not indicate whether any of the detainees were later released, handed over for investigation, or charged, which should have clearly indicated to the military command that these mass arrests were arbitrary and that the ongoing confinement of suspects in military

³²⁴ Letter from the Chief of Defence Staff to Amnesty International, 23 December 2014.

³²⁵ 12 Hourly situation report, from Headquarters Operation Restore Order, to Defence Headquarters, info: Army Headquarters, Naval Headquarters, Headquarters Nigeria Air force, dated 18 July 2013, HQJTF/ORO/J3/240/14, J3-505.

³²⁶ Weekly situation report, from Headquarters JTF Operation Restore Order to Defence Headquarters, info: Army Headquarters, Naval Headquarters, Headquarters Nigeria Air force, dated 8 March 2013, HQ JTF/ORO/J3/240/19, J3-187.

³²⁷ Weekly situation report, Headquarters JTF Operation Restore Order to Defence Headquarters, info: AHQ, NHQ, HQ NAF, dated 29 March 2013, HQ JTF/ORO/J3/240/19, J3-242.

³²⁸ Message dated 16 June 2013, from HQ JTF ORO I to DHQ, copying AHQ, NHQ, HQ NAF

³²⁹ Update on Operation BOYONA from 29-30 June 2013, dated 30 June 2013, from HQ JTF ORO to DHQ, HQJTF/ORO/J3/240/12.

detention facilities was unlawful.

REPORTS AND SUBMISSIONS BY AMNESTY INTERNATIONAL AND OTHER NGOS

Amnesty International reported the high death rate in military custody in the following documents submitted to the authorities: *Nigeria: Authorities must investigate deaths of Boko Haram suspects in military custody*,³³⁰ October 2013, and *Nigeria: more than 1,500 killed in armed conflict in north-eastern Nigeria in early 2014*,³³¹ March 2014.

Amnesty International raised the issue in several letters to the government of Nigeria and to the military commanders who had the power and authority to stop these deaths but failed or refused to take any steps to prevent further deaths.³³² (See Appendix 1.)

Amnesty International also raised specific cases of executions and deaths in custody with the Nigerian authorities. For example, In July 2014, Amnesty International wrote to the Nigerian authorities asking for an independent investigation into extrajudicial executions (including after the Giwa Barracks attack and in Bama), mass arbitrary arrests and incommunicado detention.³³³ The National Security Advisor (NSA) wrote back on 7 August 2013 that an investigation had been initiated into the allegations of extrajudicial executions.

On 23 December 2014, the Chief of Defence Staff wrote to Amnesty International and

³³⁰ Index: AFR 44/025/2013.

³³¹ Index: AFR 44/004/2014.

³³² Letter from Amnesty International to Chief Defence Staff, 12 November 2013, TG AFR44/2013/153, copy sent to the Minister of Justice and Attorney General of the Federation, Chair of the Governing Council of the National Human Rights Commission, Executive Secretary of the National Human Rights Commission. On 16 November, the Chief of Defence Staff answered, stating that deaths in mortuary records were from those killed in combat, while deaths in detention were due to wounds sustained before arrest. On 6 November 2014, Amnesty International shared the findings of this report in letters to the Minister of Justice and Attorney General of the Federation (TG AFR/2014.093), Chief of Army Staff (TG AFR 44/2014.094), Chief of Defence Staff (TG AFR 44/2014.095), NSA (TG AFR 44/2014.096) and Minister of Foreign Affairs (TG AFR 44/2014.090). On 23 December the Chief of Defence Staff provided detailed answers which either did not answer the questions or did not answer them comprehensively. On 23 December 2014, the Chief of Army staff replied, stating all responses will be coordinated by the Attorney General's office. On 7 January 2015, the Attorney General's office wrote that information of all relevant offices was requested and that Amnesty International should exercise patience. On 5 May 2015, Amnesty International wrote to the Minister of Justice and Attorney General of the Federation (TG AFR 44/2015.004) requesting a response to the questions asked in the letter of 6 November 2014, to the Chief of Defence Staff (TG AFR 44/2015003) asking follow up questions and to the National Human Rights Commission (TG AFR 44/2015.005). See Appendix 1 for an overview of Amnesty International's correspondence with the authorities.

³³³ Amnesty International wrote on 23 July 2014 to the President (TG AFR 44/2014.042). Copies were sent to the Minister of Justice and Attorney General of the Federation, National Security Adviser, Chief of Defence Staff, Chief of Army Staff, Minister of Foreign Affairs, and the National Human Rights Commission. The office of the Attorney General emailed back on 24 July, that the Attorney General had advised the NSA to request the military command to investigate the allegations. The office of the Attorney General wrote back on 8 August 2014, stating that the findings in our letter would be investigated. The National Security Adviser wrote back on 7 August, stating he had written on 30 July that the Chief Defence Staff would investigate the allegations. The letter dated 30 July 2014 was received in hard copy on 19 August 2014. Amnesty international wrote back on 21 August 2014. The National Human Rights Commission wrote back on 11 August, stating they were investigating the allegations and requesting further details. Amnesty international shared the analysis of the videos and the footage.

promised to enclose a copy of the investigation report (Panel of Inquiry to Investigate the Circumstances Surrounding the Allegation of Extra Judicial Killings and Mass Arrest by the Nigerian Military and Members of the Youth Volunteer Group in Operation ZAMAN LAFIYA Areas of Responsibility).³³⁴ No copy was enclosed and despite repeated requests, Amnesty International has not received a copy.

Amnesty International raised the extrajudicial execution of 64 detainees in Sector Alpha, Damaturu, at a meeting with senior officials at Defence Headquarters in July 2013. They denied it had happened.³³⁵

Other international and Nigerian NGOs have repeatedly publicized the issue of deaths in custody. Such NGOs include Access to Justice, AREWA research and development programme,³³⁶ Centre for Democracy and Development (CDD), Civil Rights Congress (CRC), Civil Society Legislative Advocacy Centre (CISLAC), Human Rights Watch (HRW), One Voice Coalition for Sustainable Development in Nigeria, Social Economic Rights and Accountability Project (SERAP), Spaces for Change, Human Rights Agenda Network.

FAILURE TO ACT

Despite ample information about the violations committed by the security forces, Nigerian military and civilian authorities have consistently failed to take meaningful action to stop them and to bring the perpetrators to justice.

Little or no action was taken to improve the conditions in detention and to prevent deaths in custody, or to address mass arbitrary arrests and detentions. Executions, torture, and other widely reported crimes remained uninvestigated and unpunished.

Back in 2012, following the publication of a report by the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria (the Galtimari report), which recommended, among other things, “the establishment of a judicial commission of inquiry to investigate allegations of crimes by the JTF,”³³⁷ the government noted that there were “steps being taken by the Defence Headquarters to investigate the allegations and deal with it appropriately.”³³⁸

However, the specifics or the outcome of this investigation has never been made public. On the contrary, as far as Amnesty International was able to establish, none of the military officers who were in command of units, barracks and operations in the north-east at the time when war crimes were committed by the military have faced any disciplinary action or

³³⁴ Letter by the Chief of Defence Staff, dated 23 December 2014.

³³⁵ Amnesty International meeting with officials at Defence Headquarters, July 2013.

³³⁶ North under fire: Insurgency or conspiracy? Quarterly Newsletter of Arewa Research and Development Programme (ARDP), Vol.2 No.1 July – September 2014, accessed via <http://ardpng.org/wp-content/uploads/2014/02/ARDP-Newsletter-Vol-2-No-1.pdf> (accessed in May 2015).

³³⁷ Report of the Presidential Committee on security challenges in the north-east zone of Nigeria, 2011 (Galtimari report).

³³⁸ White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, May 2012.

penalty, let alone investigation or prosecution. In fact, some military commanders have instead been promoted to senior ranks and positions in the army.³³⁹

Moreover, in recent years, Nigerian authorities have increasingly tried to downplay and dismiss the allegations of serious violations by the military. For example, in a letter to Amnesty International in December 2013, Defence Headquarters denied that rates of death in custody were as high as alleged, and blamed the deaths on Boko Haram fighters: “the records of the hospitals are largely those killed during armed combats. Most of them are from BHT deadly attacks on innocent and defenceless Nigerians. Few deaths that might have occurred among the captured were also due to injuries/wounds sustained in gun duels with security personnel and in instances to drug abuse.”³⁴⁰

In October 2014, at a workshop on civil-military cooperation, President Jonathan said that the government takes reports about human rights violations by the security forces very seriously, but “Findings, have generally shown that these reports are, in the main, exaggerated.”³⁴¹

Nigerian authorities have repeatedly stated that they would investigate Amnesty International’s allegations,³⁴² but have failed to provide any information on the progress of these investigations.

In August 2013 for instance, the Minister of Justice and Attorney General told Amnesty International in a meeting that the Federal Government had carried out investigations into the allegations Amnesty International had made in its 2012 report, *Nigeria: trapped in the cycle of violence*.³⁴³ However, the findings of these investigations were neither made available to the Nigerian public nor to Amnesty International. Amnesty International is also not aware of any prosecutions arising from this investigation.

In a meeting with Defence Headquarters in July 2013, senior officers assured Amnesty International: “we have records of all who died in custody. We have a process [of investigating]... we conduct investigation if a person dies into the circumstances of the death in detention.” The military officials were however, despite repeated requests, unable to tell Amnesty International what the investigation process involved or which specific case or cases they had investigated since 2009.³⁴⁴

In the few cases where investigations have been publicly announced, the investigations have been led by the military and carried out by internal investigation teams set up by the military.

³³⁹ For example, the former GOC of Operation BOYONA was promoted as the director Army Standard and Evaluation in September 2013 and in February 2014 as Director of the Department of Army Training and Operations (DATOPS), Army Headquarters; the former GOC of the multinational JTF was promoted to the rank of Major General in December 2013.

³⁴⁰ DHQ in a letter to Amnesty International, dated 16 December 2013, DHQ/ABJ/401/3/4/ADM.

³⁴¹ Reubenabati.com.ng/2014-10-23-International-Workshop-on-Civil-Military-Cooperation---Goodluck-Ebele-Jonathan-s-Remarks.html

³⁴² See Appendix 1.

³⁴³ Amnesty International, *Nigeria: trapped in the cycle of violence*, (Index: AFR/44/043/2012), November 2012.

³⁴⁴ Amnesty International interview, July 2013.

These include the Joint Investigation team (JIT) and the panels investigating Baga, Giwa, Chibok (the abduction of 276 schoolgirls by Boko Haram in April 2014) and the video evidence of extrajudicial executions. The terms of reference, scope and outcomes of these investigations have not been made public and there is little evidence that any of the atrocities have in fact been investigated at all. To date, no findings have been made public by any of the investigation teams and Amnesty International is not aware of any military personnel being investigated or indeed being suspended pending investigation.

An internal investigation by the military into acts allegedly committed by military personnel does not constitute an independent and impartial investigation. Considering the serious nature of the allegations against the military, including the commission of war crimes, any investigatory panel that is led by the military would be insufficient to meet Nigeria's domestic and international obligations.

FAILURE TO INVESTIGATE KILLINGS AFTER THE GIWA BARRACKS ATTACK

One emblematic case of impunity for atrocities committed by the military is the failure to investigate the extrajudicial executions of escaped detainees from Giwa barracks. On 31 March 2014, Amnesty International urged the government to investigate the extrajudicial executions of more than 620 recaptured detainees who had escaped after the attack by Boko Haram on Giwa barracks.

In a letter dated 8 April 2014, the Attorney General for the Federation and Minister of Justice responded to Amnesty International that the Government had set up a committee to investigate "the immediate and remote causes of the incident that occurred at Giwa barracks". He stated that the committee's report would be used "for holding those involved accountable".³⁴⁵

On 23 July 2014, Amnesty International sent the President a four-page letter and a dvd with the original video footage showing soldiers killing former detainees in cold blood. The letter called for an immediate, impartial, independent and thorough investigation.³⁴⁶ Copies were sent to the Attorney General, National Security Adviser, Chief of Defence Staff, Chief of Army Staff, Minister of Foreign Affairs, and the National Human Rights Commission.

On 5 August 2014, after Amnesty International made public the video footage, Defence Headquarters condemned any human rights violations and announced that they would set up a panel of senior officers, and forensic and legal experts to investigate.³⁴⁷ In its press release, however, Defence Headquarters stated that: "scenes in that video clearly depict a pattern

³⁴⁵ Letter from the Attorney General of the Federation and Minister of Justice to Amnesty International, Re: Possible war crimes and crimes against humanity in north-east Nigeria, 8 April 2014, HAGF/AI/2014/VOL.1/1.

³⁴⁶ Amnesty International letter to the President, 23 July 2014, RE: Extrajudicial executions and mass arbitrary arrests by the Nigerian Military and members of the "Civilian Joint Task Force". The letter and DVD were sent by DHL. In addition the letter and video were sent by email to one of the special advisors to the President, who confirmed he had received them.

³⁴⁷ Defence Headquarters investigating Amnesty International video allegations of human rights abuse by Nigerian Military, see: defenceinfo.mil.ng/defence-headquarters-investigating-amnesty-international-video-allegation-of-human-rights-abuse-by-nigerian-military/.

consistent with the atrocious operations of the terrorists.”

The National Security Adviser also informed Amnesty International on 7 August that an investigation had been initiated into the allegations of extrajudicial executions.³⁴⁸ The Chief of Army Staff wrote to Amnesty International on 15 August, asking Amnesty International to meet with the panel set up to investigate the allegations.³⁴⁹

In September 2014, Amnesty International met with officials from Defence Headquarters, Army Headquarters, Office of the National Security Adviser, the office of the Attorney General and the Permanent Secretary of the Ministry of Foreign Affairs. The response given by representatives of the National Security Advisor, Defence Headquarters and Army Headquarters to Amnesty International’s detailed queries about efforts to investigate the reported extrajudicial executions on 14 March 2014 was that a panel to investigate the allegations had been established, an inquiry led by the military.

None of the officials at these meetings could provide Amnesty International with details of the panel’s mandate and whether this investigation conforms to Nigeria’s obligation to carry out prompt, impartial and independent investigations. According to one representative from Army Headquarters, the panel would investigate “all Amnesty has informed us of, including detention, human rights abuses and medical issues”.³⁵⁰ The authorities could not give any details of steps taken by the authorities to ensure that the investigation would be impartial. Nor could they provide any information about progress made by the panel.

Officials from the office of the Attorney General informed Amnesty International that the office of the Attorney General would take no action until the military investigations into Amnesty International’s allegations were concluded.³⁵¹ The officials however explained the efforts made and challenges encountered when the office was first informed by Amnesty International about the extrajudicial executions that followed the attack on Giwa barracks on 14 March 2014. According to these officials, the Attorney General tasked a monitoring committee to investigate the extrajudicial executions after the attack on Giwa barracks.

The committee was set up to monitor the compliance of the Nigerian army with international humanitarian law obligations and included representatives of the Ministry of Justice, National Security Adviser, the military and the Ministry of Defence. The officials stated that this committee could not make progress in its investigation as it was unable to travel to Maiduguri because of security concerns on the part of the military, and that the investigation was therefore on hold.³⁵² The authorities did not inform Amnesty International of the exact composition or scope of investigation of the committee or whether the committee had in fact

³⁴⁸ Letter by the Office of the National Security Advisor to Amnesty International, 7 August 2014, Re: Alleged extrajudicial executions and mass arbitrary arrests by the Nigerian military and members of the “Civilian Joint Task Force”, NSA/A/221/C.

³⁴⁹ Letter from the Army headquarters to Amnesty International, AHQ DOAA/G1/300/195.

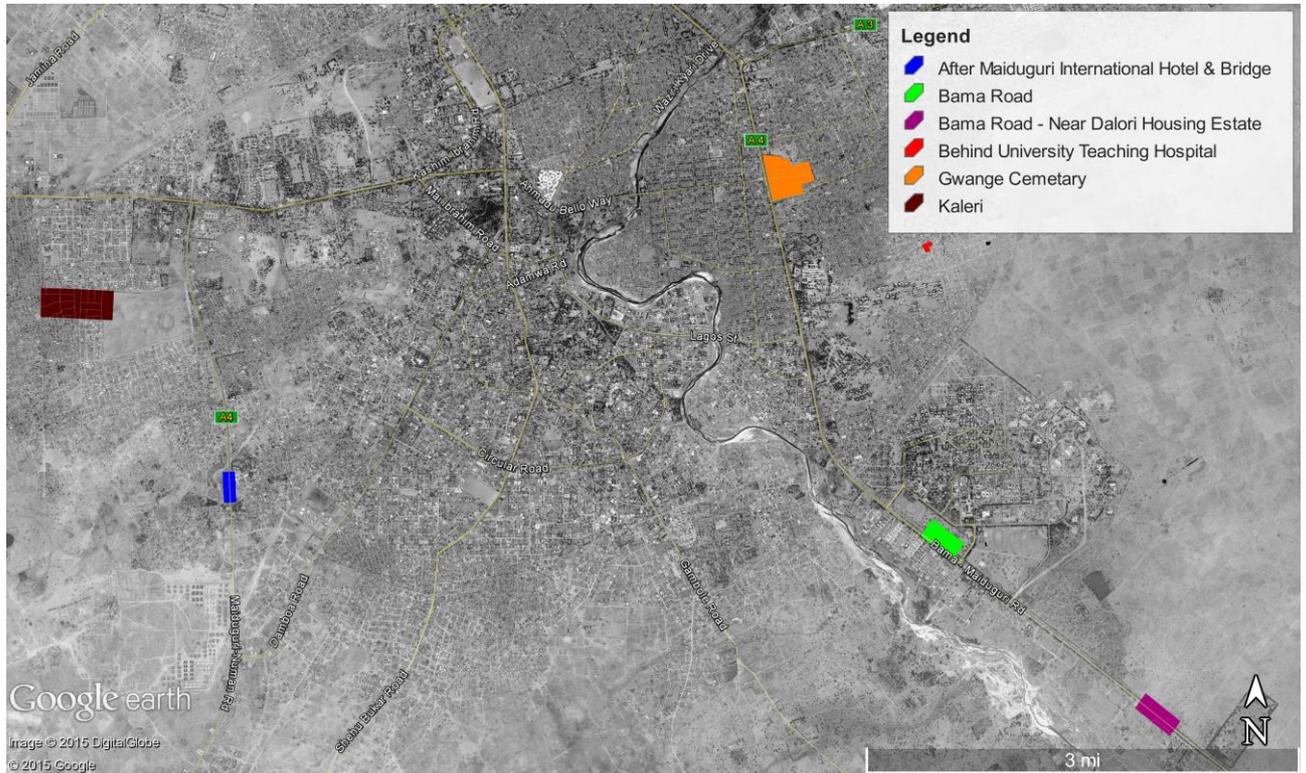
³⁵⁰ Amnesty International was informed the panel consists of three Generals and two Colonels, from the different branches of the armed forces.

³⁵¹ Amnesty International meeting, September 2014.

³⁵² Amnesty International interview, September 2014.

started its investigations at all.

According to Amnesty International's research, none of the military personnel based in Maiduguri who may have been involved in the shooting of more than 640 recaptured detainees was prosecuted, or even suspended. It is unclear if any were investigated and as far as Amnesty International could confirm from civil society activists, military sources, lawyers, residents and hospital staff, no witnesses were interviewed. A high ranking military source informed Amnesty International that some of the officers who feature in the video footage showing soldiers killing detainees reported at headquarters, but after a couple of days they returned to their posts in the north-east.³⁵³



Approximate locations of suspected mass burial sites in Maiduguri. © DigitalGlobe / Google Earth

³⁵³ Amnesty International interviews, August and November 2014.

FAILURE TO INVESTIGATE KILLINGS IN BAGA

In response to an attack by Boko Haram on 16 April 2013, the military reportedly killed more than 185 people and wounded many more in the town of Baga (see above). But two years later, the government is yet to bring any of the perpetrators to justice.

The incident was widely reported. On 22 April, having received “preliminary briefings from the Military High Command on the incident”, President Jonathan ordered a “full-scale” investigation “into reports of civilian casualties”.³⁵⁴

The National Human Rights Commission (NHRC) investigated the incident and raised concerns about proportionality in the use of force in internal security operations. Its recommendations included a review and publication of the Rules of Engagement.³⁵⁵ The NHRC quoted the police incident report, which claimed that the Multinational JTF “started shooting indiscriminately at anybody in sight including domestic animals. This reaction resulted to loss of lives and massive destruction of properties.” The police further stated that at least five wards were “completely razed down by the soldiers”.³⁵⁶

The Senate also set up a committee to investigate the incident. The committee reported to the Senate that it was unable to determine how many people were killed or how many houses were burnt down because there was no “documentary evidence”.³⁵⁷ The committee concluded that: “The death toll of one hundred and eighty five (185) was exaggerated but there may be more than thirty seven (37) deaths. This is possible as there is no documentary evidence from either the natives or the Military to ascertain figures quoted.” The Committee acknowledged that the operation by the military on 16 April “was carried out hastily” and concluded that if the Multinational JTF had “cordoned the area till day break and carry out house to house check” the number of deaths and buildings burnt would have been lower. The committee counted 115 burnt houses. The committee made various recommendations, including calling on the armed forces to adhere “to the provisions of the Geneva Convention, Code of Conduct and Rules of Engagement in order to minimise casualties” and urging the Minister of Defence to ensure that the Rules of Engagement were updated and strictly

³⁵⁴ “Baga Massacre: Jonathan Orders Investigation Into Reports Of High Civilian Casualties In Baga”, 22 April 2013, signed by Reuben Abati, Special Adviser to the President (Media & Publicity). The press release stated that the President had announced “a full-scale investigation into reports of high civilian casualties in the confrontation between Nigerian soldiers and insurgents at Baga”. It stated that the casualty figures “reported by the foreign media may be grossly exaggerated”.

³⁵⁵ On 3 May 2013, the Governing Council of the NHRC authorized an independent investigation into the Baga incident with a mandate to assess the humanitarian situation in Borno and Yobe states. The NHRC reviewed reports by the Defence Headquarters, the Nigeria Police Force and non-governmental organizations. Due to the security situation, the NHRC was not able to undertake a field investigation. The NHRC could not determine the actual number of people killed nor who was responsible. The report “narrates trends in evidence at the disposal of the Commission but stops short of making dispositive findings with respect to allocation of individual or other responsibility.” The NHRC stated that there were allegations that “this was one of many acts of provocation [by Boko Haram] with fatal consequences... which may have inspired or invited a firm response by the military deployment in town.”

³⁵⁶ National Human Rights Commission, *The Baga incident and the situation in North-east Nigeria, an interim assessment*, June 2013.

³⁵⁷ In June 2013 the committee presented its findings, based on a field visit.

followed.³⁵⁸

Despite the arrest of nine Boko Haram suspects, no further investigation was conducted and neither were the nine Boko Haram suspects prosecuted. According to a message from the Multinational JTF to Defence Headquarters on 17 April, five of them were “killed in action”. Of the remaining four, arrested by Multinational JTF troops “during raid ops conducted within Baga”, the field report gives three names: Bakura Madu, Modu Haji and Hussaini Usman.³⁵⁹ On 20 April, the Multinational JTF reported to Defence Headquarters and Army Headquarters (DATOPS) that Bakura Madu had died in custody.³⁶⁰ Modu Haji died in detention on 21 April.³⁶¹ The fate of Hussaini Usman and the fourth, unnamed, detainee remains unknown.

No official figures of how many people died in Baga have been released. A senior military official at Defence Headquarters who was part of the military’s investigations into the incident in Baga told Amnesty International in July 2013 that: “All the allegations were not true...none of the local community representative could substantiate the number of deaths.”³⁶²

Officials at Defence Headquarters were also critical of the NHRC report, which questioned the army’s handling of the incident. In a meeting with Amnesty International in July 2013, they accused the NHRC of being biased in its reporting and analysis.³⁶³

It is unclear if the “full scale” investigation ordered by the President did in fact take place. The results were never made public or shared with Amnesty International, and Amnesty International is not aware of any officers being prosecuted or suspended as the result of the investigation. A senior military official told Amnesty International that he believed these crimes were “covered up” by the military.³⁶⁴

³⁵⁸ See www.nassng.org

³⁵⁹ Weekly intelligence and security summary, from Multinational JTF to DHQ and AHQ (DATOPS), dated 19 April 2013, copies to DIA, HQ1 Div, HQ 3 Div, HQ NAAC, HQ NAIC (Abuja), HQ 3 Bde, HQ 21 Bde, HQ 3 DIG, MNJTF/G3/240/05, G3/238.

³⁶⁰ Daily situation report, from Multinational JTF to DHQ, AHQ (DATOPS), dated 20 April 2013, copies to DIA, HQ1 Div, HQ 3 Div, HQ NAAC, HQ NAIC (Abuja), HQ 3 Bde, HQ 21 Bde, HQ 3 DIG, MNJTF/G3/240/04, G3/255.

³⁶¹ Weekly intelligence and security summary, from Multinational JTF to DHQ and AHQ (DATOPS), dated 26 April 2013, copies to DIA, HQ1 Div, HQ 3 Div, HQ NAAC, HQ NAIC, HQ 3 Bde, HQ 21 Bde, HQ 3 DIG, MNJTF/G3/240/05, G3/263.

³⁶² Amnesty International meeting with officials at Defence Headquarters, July 2013.

³⁶³ Amnesty International meeting with officials at Defence Headquarters, July 2013.

³⁶⁴ Amnesty International interview, November 2014.

INTERNATIONAL MILITARY ASSISTANCE

MILITARY ASSISTANCE TO THE NIGERIAN SECURITY FORCES

In 2013 and 2014 Nigeria received arms from the following countries: Canada, China, Czech Republic, France, Germany, Israel, Norway, Russia, South Africa, Ukraine and the USA.

These were mostly deliveries of armoured personnel carriers, but also included an unknown number of unmanned aerial vehicles from China, five combat helicopters from Russia, four tanks from the Czech Republic and ten tanks from an unknown country.³⁶⁵ According to UN Comtrade - an open source database which compiles trade statistics from over 170 countries – countries registering over US\$30,000 worth of arms and ammunition exports to Nigeria in 2013 and 2014 included the Czech Republic, Germany, India, Italy, Serbia, Slovakia, Switzerland, Turkey, the UK and the USA.³⁶⁶

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”. These countries were Belarus, Brazil, China, Democratic Republic of Korea, France, Germany, Ghana, India, Liberia, Pakistan, Romania, Russia, Sao Tome and Principe, Serbia, Turkey, United Kingdom, and the USA.³⁶⁷

The USA supported the Nigerian military and police with US\$6.3 million in 2014, up from US\$6.2 million in 2013.³⁶⁸ The US trained more than 6,200 troops to participate in international peacekeeping forces.³⁶⁹ The USA and Nigeria hold frequent meetings to discuss Nigeria’s strategy in fighting Boko Haram.³⁷⁰ According to a Council on Foreign Relations

³⁶⁵ Stockholm International Peace Research Institute Arms Transfers Database, available from http://armstrade.sipri.org/armstrade/page/trade_register.php; and Stockholm International Peace Research Institute “Trends in International Arms Transfers, 2014” 16 March 2015; <http://books.sipri.org/files/FS/SIPRIFS1503.pdf> (accessed on 31 March 2015). SIPRI data covers actual deliveries of major conventional weapons, not including small arms/light weapons and ammunition. See also DefenceWeb “Recent Nigerian military acquisitions” 30 March 2015; http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=38580 (accessed on 31 March 2015).

³⁶⁶ United Nations Commodity Trade Statistics Database, available from <http://comtrade.un.org/db/> (accessed on 31 March 2015). While Comtrade collects trade data from around the world, the information collected only represents transfers across borders, not final destination/ end-user, and many countries elect not to report arms and ammunition transfers with Comtrade.

³⁶⁷ Reported in Nigeria Defence: “FG banks on military reforms to help tackle insecurity” <http://nigeriadenefence.com/story.aspx?Sid=605>

³⁶⁸ Security Assistance Monitor, <http://www.securityassistance.org/data/program/military/Nigeria/> (accessed on 31 March 2015).

³⁶⁹ Security Assistance Monitor, <http://www.securityassistance.org/nigeria>. Further assistance included: professionalizing Nigeria’s military, investigating bomb sites, and enhancing forensics capacity. See also p.17, Council on Foreign Relations, *U.S. policy to Counter Nigeria’s Boko Haram*, November 2014. Available from <http://www.cfr.org/nigeria/us-policy-counter-nigerias-boko-haram/p33806> (accessed 31 March 2015).

³⁷⁰ On 12 and 13 May 2014, the Department of State Under Secretary for Civilian Security, Democracy,

report, the USA is supportive of the Nigerian government, “with officials only mildly denouncing publicly the human rights abuses perpetrated by Nigerian security services in their struggle with Boko Haram.”³⁷¹

US-Nigeria military cooperation seems to have come under pressure because of the US Leahy legislation, which prohibits providing military assistance to foreign military units that violate human rights with impunity. On several occasions the USA raised allegations of human rights violations by the security forces with the Nigerian government, including in September 2013 at a bilateral meeting between President Obama and President Jonathan.³⁷²

On 11 November 2014, Nigeria expressed dissatisfaction with this military cooperation citing the US refusal to “grant Nigeria’s request to purchase lethal equipment” on the basis of “allegations that Nigeria’s defence forces have been violating human rights”.³⁷³ According to Nigeria’s ambassador to the USA, these allegations are made by human rights groups and media who support the opposition and “use whatever means possible to embarrass the government”.³⁷⁴ In response, the US State Department claimed that it had provided and approved sales of military equipment to Nigeria, shared intelligence and trained a new army battalion. It admitted the USA refused a request to sell Nigeria Cobra attack helicopters, “due to concerns about Nigeria’s ability to use and maintain this type of helicopter in its effort against Boko Haram and ongoing concerns about the Nigerian military’s protection of civilians when conducting military operations”.³⁷⁵ However, this appears to be an exception and the US Ambassador to Nigeria confirmed that the sale of other military equipment to Nigeria was ongoing.³⁷⁶

On 6 May 2014, Nigeria accepted an offer of assistance in the search for the Chibok girls from the USA. The USA offered support to rescue the Chibok girls, including “hostage negotiation, intelligence gathering, strategic communications, and how to mitigate the risks of future kidnappings.”³⁷⁷ In addition, 16 Department of Defense staff with expertise in

and Human Rights, and the Commander of the US Africa Command met senior Nigerian security officials “to discuss how to intensify efforts against Boko Haram, reform human rights practices, and pursue a comprehensive approach to Boko Haram”. <http://www.foreign.senate.gov/hearings/bringbackourgirls-addressing-the-threat-of-boko-haram/051514>.

³⁷¹ Council on Foreign Relations, *U.S. policy to counter Nigeria’s Boko Haram*, November 2014.

³⁷² The White House, Remarks by President Obama Before Bilateral Meeting with President Goodluck Jonathan of Nigeria, 23 September 2013.

³⁷³ Embassy of the Federal Republic of Nigeria, “A stable and secure Nigeria: an asset to America”, 11 November 2014, statement made at the Council on Foreign Relations, <http://www.nigerianembassyusa.org/>, also available at <http://www.vanguardngr.com/2014/11/stable-secure-nigeria-asset-america/> (accessed on 31 March 2015).

³⁷⁴ Embassy of the Federal Republic of Nigeria, “A stable and secure Nigeria: an asset to America”, 11 November 2014, statement made at the Council on Foreign Relations; <http://www.nigerianembassyusa.org/>, also available at <http://www.vanguardngr.com/2014/11/stable-secure-nigeria-asset-america/> (accessed on 31 March 2015).

³⁷⁵ US State Department, “Daily Press Briefing: November 12, 2014” 12 November 2014; <http://www.state.gov/r/pa/prs/dpb/2014/11/233963.htm> (accessed on 31 March 2015).

³⁷⁶ Channels Television “US Says No ‘Arms Deal Embargo’ On Nigeria” 9 January 2015; <http://www.channelstv.com/2015/01/09/us-says-arms-deal-embargo-nigeria/> (accessed on 31 March 2015).

³⁷⁷ US Senate Foreign Relations Committee, “Testimony of Ambassador Robert P. Jackson, Acting Assistant Secretary of State for African Affairs” 15 May 2014;

medical, intelligence, counter-terrorism and communications issues are based in Abuja, including two military officers with experience in supporting the mission against the Lord's Resistance Army in Uganda.³⁷⁸

The USA trained some 650 troops between April and August 2014 for combat operations.³⁷⁹ In November 2014, the Council on Foreign Affairs reported that "Nigerian reluctance to accept further U.S. training with its requirements for fiscal accountability and transparency has inhibited the program's expansion in the past."³⁸⁰ On 1 December 2014, the US Embassy in Abuja announced that the training programme had ended at Nigeria's request, without further explanation.³⁸¹

Nigeria and the United Kingdom have also signed a MoU on bilateral military cooperation. According to the Foreign Affairs Select Committee, while the UK has taken "a very cautious response to requests for military assistance and training" from Nigeria, the UK provided judicial training, advice on counter-terrorism strategies, legal frameworks, crisis management, bomb scene management, anti-terrorist finance training, and assistance to the Office of the National Security Advisor during 2013.³⁸² The UK further provides training to the police, the military and the judiciary.

Following the abduction of the schoolgirls in Chibok on 14 April 2014, Nigeria received further commitments of support from countries across the world. Three regional summits were held, in Paris, London and Abuja, where states pledged to share intelligence and develop a regional counter-terrorism strategy in order to oppose Boko Haram.³⁸³ One of the

http://www.foreign.senate.gov/imo/media/doc/Jackson_Testimony1.pdf (accessed on 31 March 2015).

³⁷⁸ US Senate Foreign Relations Committee, "Testimony of Alice Friend Principal Director for African Affairs" 15 May 2014; http://www.foreign.senate.gov/imo/media/doc/Friend_Testimony.pdf (accessed on 31 March 2015).

³⁷⁹ Council on Foreign Relations, *U.S. policy to Counter Nigeria's Boko Haram*, November 2014, p17. Available from <http://www.cfr.org/nigeria/us-policy-counter-nigerias-boko-haram/p33806> (accessed 31 March 2015). See also US Embassy in Abuja, "U.S. Government Regrets Nigerian Cancellation of Military Training" 1 December 2014; http://photos.state.gov/libraries/nigeria/323264/press-releases/us_govt_regrets_nigerian_cancellation_mil_training.pdf (accessed on 31 March 2015).

³⁸⁰ Council on Foreign Relations, *U.S. policy to counter Nigeria's Boko Haram*, November 2014, p17. Available from <http://www.cfr.org/nigeria/us-policy-counter-nigerias-boko-haram/p33806> (accessed 31 March 2015).

³⁸¹ US Embassy in Abuja, "U.S. Government Regrets Nigerian Cancellation of Military Training" 1 December 2014; http://photos.state.gov/libraries/nigeria/323264/press-releases/us_govt_regrets_nigerian_cancellation_mil_training.pdf (accessed on 31 March 2015).

³⁸² Seventh report of the Foreign Affairs Select Committee session 2013-14: The UK's response to extremism and instability in North and West Africa (HC 86 2013-14); <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmcaff/86/86.pdf> (accessed on 31 March 2015). See also Foreign Affairs Committee "Oral evidence taken before the Foreign Affairs Committee on Tuesday 3 December 2013" 3 December 2013; <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmcaff/86/131203.htm> (accessed on 31 March 2015).

³⁸³ "Paris Summit for Security in Nigeria – Conclusions" 17 May 2014; www.elysee.fr/declarations/article/paris-summit-for-security-in-nigeria-conclusions (accessed on 10 December 2014). UK Foreign and Commonwealth Office, "London Ministerial on security in Nigeria: communique", 12 June 2014; www.gov.uk/government/publications/london-ministerial-on-security-in-nigeria-communique (accessed on 10 December 2014). Daily Trust, "Global action targets Boko haram funding", 4 September 2014; www.dailytrust.co.ng/daily/top-stories/33555-global-action-targets-

outcomes of these summits was the establishment of an External Intelligence Response Unit (EIRU) by Nigeria, Benin, Cameroon, Chad, France, Niger, United Kingdom and the USA.³⁸⁴

States also pledged bilateral support. Australia offered to send special forces³⁸⁵ and China confirmed it would assist where possible, including with the training of military personnel.³⁸⁶ During President Jonathan's meeting with Premier Li Keqiang in May 2014, the Chinese also confirmed that they would share information gathered by the country's satellites and intelligence services. In June 2014, following President Mamnoon Hussain's visit to Nigeria, Nigeria and Pakistan announced they would increase their cooperation around defence and counter-terrorism strategies.³⁸⁷

In June 2014, the Sri Lankan Chief of Defence Staff met with his Nigerian counterpart to share their experience. In a press release the Nigerian Chief of Defence Staff announced that the Nigerian military is "seriously considering the counter insurgency experience of the Sri Lankan military with a view to identifying those areas that could be operationally beneficial to Nigeria in its battle to defeat terrorism".³⁸⁸

In September 2014, a Nigerian newspaper reported that Russia's special forces were training 1,200 Nigerian soldiers, police and Department of State Services (DSS) personnel.³⁸⁹

MULTINATIONAL JOINT TASK FORCE AND REGIONAL COOPERATION

The Multinational Joint Task Force (Multinational JTF) was set up by Chad, Niger and Nigeria in 1998 to deal with cross-border banditry. In April 2012 its mandate was expanded to include "the fight against Boko Haram Terrorism (BHT) in the Lake Chad Region."³⁹⁰ In 2013 and 2014 the armed forces of Chad and Niger respectively withdrew their troops from Multinational JTF bases.

After the abduction of the schoolgirls from Chibok, the countries of the Lake Chad Basin Commission (LCBC) and Benin resolved to re-establish the Multinational JTF. The Multinational JTF will include battalions from each of the LCBC member states and Benin up to 10,000 personnel from the LCBC Member States and Benin. The African Union Peace and

bokoharam-funding (accessed on 10 December 2014).

³⁸⁴ www.channelstv.com/2014/06/11/terrorism-nigeria-us-others-set-up-external-intelligence-response-unit/

³⁸⁵ As far as Amnesty International could verify, the offer was not accepted. See Australian Broadcasting Corporation "Australia confirms offer to send SAS to Nigeria" 3 June 2014; <http://www.abc.net.au/pm/content/2014/s4018035.htm> (accessed on 31 March 2015).

³⁸⁶ China.org.cn "Nigeria welcomes China's support on abducted girls" 13 May 2014; http://www.china.org.cn/world/2014-05/13/content_32368048.htm (accessed on 31 March 2015).

³⁸⁷ <http://allafrica.com/stories/201406111169.html>

³⁸⁸ DHQ press release, Sri Lankan Military Assures Nigerian Counterparts of Support in Counter Terrorism Campaign, 13 June 2014; <http://www.reubenabati.com.ng/SRI-LANKAN-MILITARY-ASSURES-NIGERIAN-COUNTERPARTS-OF.html> (accessed on 31 March 2015).

³⁸⁹ Vanguard, "Terrorism: 1,200 Nigerian security personnel leave for Russia" 27 September 2014; <http://www.vanguardngr.com/2014/09/terrorism-1200-nigerian-security-personnel-leave-russia/> (accessed on 31 March 2015).

³⁹⁰ Message from MNJTF HQ to DHQ, dated 11 May 2012, MNJTF/G3/240/02, Request for Intelligence Operatives and Equipment.

Security Council endorsed the Multinational JTF and was seeking a resolution from the United Nations Security Council endorsing the force and establishing a trust fund to finance the troops.³⁹¹ As of 31 March 2015 no troops had been deployed as part of the new Multinational JTF.

Boko Haram has repeatedly attacked locations in Cameroon, prompting a response from Cameroon. An agreement between Nigeria and Cameroon reportedly allows each country's military to pursue Boko Haram fighters up to 8 km into the other's territory.³⁹² While attacks by Boko Haram remained relatively small scale, they increased in 2014. Schools in the north of Cameroon have closed. On 8 January 2015, the President of Cameroon called for greater international assistance in order to fight Boko Haram.³⁹³ In response, Chad sent troops to Cameroon.³⁹⁴

From mid-February 2015, the armed forces of Cameroon, Chad and Niger assisted the Nigerian military to push Boko Haram out of major towns in north-east Nigeria.

³⁹¹ See the Communique of the African Union Peace and Security Council's 489th meeting on 3 March 2015, PSC/PR/COMM.CDLXXXIX, available at <http://www.peaceau.org/uploads/psc-489-comm-boko-haram-03-03-2015-doc.pdf> (accessed on 31 March 2015).

³⁹² International Crisis Group "Curbing Violence in Nigeria (II): The Boko Haram Insurgency" 3 April 2014, p26; <http://www.crisisgroup.org/~media/Files/africa/west-africa/nigeria/216-curbing-violence-in-nigeria-ii-the-boko-haram-insurgency.pdf> (accessed on 31 March 2015).

³⁹³ <http://www.voanews.com/content/cameroon-president-calls-for-greater-help-to-fight-boko-haram/2590463.html>.

³⁹⁴ <http://www.aljazeera.com/news/africa/2015/01/chadian-troops-join-war-against-boko-haram-201511815165034154.html>.

INTERNATIONAL CRIMINAL COURT

In November 2010, the Office of the Prosecutor of the International Criminal Court made public that it was conducting a preliminary examination of the situation in Nigeria, analysing alleged crimes committed since 2004.³⁹⁵ In its November 2012 report on the preliminary examination the Office of the Prosecutor reported that it considered that Boko Haram “has launched a widespread and systematic attack” against the civilian population in north-east Nigeria and that there was a reasonable basis to believe that since July 2009 Boko Haram had committed the crimes against humanity of murder and persecution.³⁹⁶

However, in the same report it indicated that it did not consider that allegations against the security forces were sufficient to establish that the actions of the military constituted an attack against the civilian population. At that point the Office of the Prosecutor also did not believe that there was sufficient evidence to demonstrate that the situation constituted a non-international armed conflict, and therefore was not looking into allegations of war crimes by either side. The preliminary examination advanced to phase 3, admissibility, to assess if the Nigerian authorities were conducting genuine proceedings in relation to crimes committed by Boko Haram. In its August 2013 report on Nigeria the Office of the Prosecutor reiterated these conclusions with some explanation of its thinking on these issues.³⁹⁷

In its November 2013 report on Preliminary Examination Activities, the Office of the Prosecutor came to the same conclusion that Boko Haram may have committed crimes against humanity in Nigeria.³⁹⁸ However, the report determined that at least since May 2013, the situation should be considered a non-international armed conflict, and indicated that it would continue to analyse the evidence to determine whether either side had committed war crimes. The Office of the Prosecutor requested further information regarding the discrepancy between the number of Boko Haram suspects detained and the number of court proceedings.

A year later, in November 2014, the Office of the Prosecutor again concluded that members of Boko Haram had committed crimes against humanity and may have committed war crimes. It also indicated that it had received reports of crimes committed by the security forces, including the extrajudicial execution of more than 600 people after Boko Haram attacked Giwa barracks and allegations of torture, although it did not come to a conclusion

³⁹⁵ See ICC-OTP, Report on Preliminary Examination Activities, 13 December 2012; <http://www.icc-cpi.int/NR/rdonlyres/63682F4E-49C8-445D-8C13-F310A4F3AEC2/284116/OTPreportonPreliminaryExaminations13December2011.pdf> (accessed on 31 March 2015).

³⁹⁶ ICC-OTP “Report on Preliminary Examinations” 22 November 2012; <http://www.icc-cpi.int/NR/rdonlyres/C433C462-7C4E-4358-8A72-8D99FD00E8CD/285209/OTP2012ReportonPreliminaryExaminations22Nov2012.pdf> (accessed on 31 March 2015).

³⁹⁷ ICC-OTP “Situation in Nigeria: Article 5 Report” 5 August 2013; <http://www.icc-cpi.int/iccdocs/PIDS/docs/SAS%20-%20ONGA%20-%20Public%20version%20Article%205%20Report%20-%202005%20August%202013.PDF> (accessed on 31 March 2015).

³⁹⁸ ICC-OTP, Report on Preliminary Examination activities, November 2013.

114 Stars on their shoulders. Blood on their hands.
War crimes committed by the Nigerian military.

on this point. It again noted a discrepancy between the number of arrests made and number of legal proceedings against Boko Haram suspects, in the context of its attempt to establish whether “those most responsible for the most serious crimes are being brought to justice.” The Office of the Prosecutor concluded that it would continue its analysis of alleged war crimes by both parties to the conflict.³⁹⁹

³⁹⁹ ICC-OTP, Report on Preliminary Examination activities, November 2014.

RECOMMENDATIONS

TO NIGERIA TO THE FEDERAL GOVERNMENT

Issue a public statement with a clear commitment to end human rights violations and to ensure accountability for crimes under international law committed by the Nigerian military in north-east Nigeria including:

- Acknowledgment of the extent and gravity of allegations of war crimes and potential crimes against humanity against the Nigerian military made by human rights organisations, including Amnesty International.
- Commitment that all reports and complaints of violations and crimes under international law will be promptly, thoroughly, independently and impartially investigated.
- Commitment to put an end to such violations and commission of crimes under international law by Nigerian armed forces, including immediate measures to stop practices of arbitrary and illegal arrests, detentions, torture, extrajudicial executions, and other unlawful killings in north-east Nigeria.
- Commitment to end unlawful detention of persons by the military, including an end to inhuman and life-threatening conditions of detention in north-eastern Nigeria with the view to stop the alarming rate of death of people under military detention;
- Commitment to amend rules of engagement and standing orders to provide safeguards to ensure that civilians not taking direct part in hostilities, detainees and other protected persons are not murdered, tortured or subjected to enforced disappearances.
- Assurance to the families of all persons arrested by the military or the Civilian JTF in the north east Nigeria, that immediate measures will be taken to investigate and notify them of the fate of their relatives, including whether they are alive or not and if they are alive, where they are detained and on what charges.

Initiate prompt, independent, impartial, and effective investigations into all allegations of war crimes and possible crimes against humanity committed by the Nigerian military and members of the Civilian JTF with the aim of bringing suspects to justice in fair trials:

- Pending such investigations, suspend from active duty all commanding officers and soldiers reasonably suspected to be individually criminally responsible for crimes under international law, including those named in this report.
- These investigations should specifically include:
 - All allegations of unlawful killings and extrajudicial executions in north-eastern Nigeria, particularly the incident involving the extrajudicial execution of former detainees from Giwa barracks following the 14 March 2014 attack.
 - All incidents of enforced disappearances since 2011.
 - All cases of arbitrary detentions by the military in north-east Nigeria since 2011 where these detentions constitute serious violations of international

human rights law and may constitute crimes under international law, identifying the names of those detained, where they were detained, the officer in charge of the facility where they were or are detained, the circumstances under which they were detained, the charges, if any, on which they are held, what steps have been taken to bring them to court, who was notified of their detention, what access they have had to relatives, doctors and lawyers, whether they are still in detention and where they are held or whether they have been released or have died in custody.

- All deaths in military custody in north-east Nigeria since 2011, identifying the names of those dead, where they died, the officer in charge of the facility where they died, the circumstances in which they died, the cause of their death, what steps were taken to investigate the deaths, who was notified of the deaths, and where the bodies were buried. Where deaths remain suspicious all attempts must be taken to identify those responsible for these deaths and to prosecute them in fair trials that are not subject to the death penalty.
- The findings of these investigations must be made public and all investigations must be in full compliance with the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.
- These investigations should lead to those criminally responsible being brought to account through fair trials that are not subject to the death penalty.
- Ensure that all evidences of crimes and human rights violations are preserved, including by issuing an order that all military records must be preserved, in particular records of those detained in military custody.
- Ensure that witnesses are able to testify as part of any investigation or trial into these crimes without fear of reprisal. This should include empowering the independent body conducting investigations to take all necessary measures to protect witnesses and establishing an effective witness protection programme for subsequent trials.
- Seek the assistance of international experts in conducting exhumations, autopsies and investigations. Bodies interred in mass graves such as those in Gwange, Dunomari and Kaleri should be exhumed with a view to conducting an independent autopsy by recognized Nigerian and international forensic pathologists to determine the causes and circumstances of death.

Urgently implement safeguards against human rights violations by security forces, including taking immediate measures to end unlawful arrest; unlawful, incommunicado and arbitrary detentions; torture and ill-treatment; enforced disappearance; extrajudicial executions and other unlawful killings. Specifically the Government should:

- Ensure that the arrest and detention of persons conform fully with the Nigerian Constitution, international human rights treaties ratified by Nigeria as well as international human rights standards, in particular, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the UN's Standard Minimum Rules for the Treatment of Prisoners, including by:
 - issuing orders to all security forces currently authorised to conduct arrests defining the circumstances under which arrest and detention are justified under

Nigerian law and international treaties.

- Ensure that upon being brought into custody, the grounds for arrest are recorded. If there are insufficient grounds and authority for arrest, the person must be released.
- Immediately end the involvement of the Civilian JTF and vigilante bodies in arrests and detentions.

Take immediate measures to ensure that all detainees are held in legal, sanitary and humane conditions, which ensure their physical integrity.

- Ensure that all detention facilities are subjected to regular independent inspection by national and international human rights bodies, including the National Human Rights Commission (NHRC) and relevant mechanisms of the African Commission on Human and Peoples' Rights (ACHPR) and the United Nations. It should also ensure that other human rights NGOs have access to all places of detention run by the security forces, including in the facilities listed in this report.
- Immediately close all unofficial and secret places of detention, including ungazetted military detention centres, and either transfer detainees to lawful places of detention or release them in such a manner that allows reliable verification of their release and ensures their safety.
- Ensure that an up-to-date, centralized register of all people arrested and detained is maintained and kept readily available and accessible to the relatives and lawyers of those detained as well as to any other people who may be concerned. The register must include the personal details of the detainees, the names and places of detention, as well as the names of the individuals responsible for the detention, authority for the detention and the date of arrest and detention and all transfers.
- Ensure that all detainees are charged with a recognizable criminal offence and tried in accordance with international standards, or released.
- Ensure that detainees are brought promptly and regularly before a judge and have access to a procedure through which they may challenge the lawfulness of their detention.
- Urgently ensure that all detainees have access to professional medical care, adequate food and all other necessities of human survival.
- Urgently ensure that all detainees have prompt and ongoing access to their relatives and legal counsel in accordance with international standards.
- Ensure that there is a process that allows prisoners to lodge complaints about their treatment.
- Establish effective, independent oversight bodies with powers to review and investigate complaints of ill-treatment and to monitor conditions in all prisons and detention facilities.

- Ensure that confessions or other evidence obtained through torture may never be invoked in legal proceedings.
- Compile, analyse and publish regular national data on the use of excessive force, including all fatal shootings and deaths in custody. Such data should be made readily available for public and any independent investigations.
- Promote training based on international human rights standards.
- Ensure that international human rights standards on the prohibition of torture and ill-treatment are fully incorporated into the codes of conduct and training of military officials, and strictly enforced.

Assess the progress, challenges and failures of relevant government institutions in preventing the commission of such violations and holding perpetrators of these crimes to account with a view to taking immediate reform measures, including by:

- Establishing a public investigation into the failure of relevant government institutions to identify and address allegations of human rights violations against Nigerian security forces.
- Ensuring full transparency of investigations and measures taken by relevant government bodies including by making public all findings of previous committees set up to investigate the security situation in northern Nigeria and allegations of human rights violations by the security forces.
- Making public statistics of all completed investigations and prosecutions of individuals for criminal responsibility for crimes under international law and serious human rights violations and abuses arising from the situation in north-east Nigeria.
- Consulting relevant civil society organisations, the NHRC and other relevant stakeholders on the findings of this assessment and necessary reform measures.

Domesticate and implement in full international human rights treaties:

- Introduce legislation to bring the Terrorism Prevention Act into line with international law including by repealing the death penalty and by providing that an individual may only be arrested on reasonable suspicion of having committed a criminal offence; that all individuals must be promptly brought before a court and charged with a recognisable criminal offence; and that law enforcement officers (including the military when exercising such a function) may only use force when strictly necessary and to the minimum extent required under the circumstances.
- Take all necessary steps to criminalise torture in compliance with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and punishable by sanctions commensurate with the gravity of the practice.
- Ensure that domestic law criminalizes enforced disappearances and that domestic standards on arrest and detention comply with international human rights law and standards.

- Fully implement in practice the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and its Optional Protocol.
- Fully implement the Convention for the Protection of All Persons from Enforced Disappearance.
- Domesticate and fully implement the State obligations under the Rome Statute of the International Criminal Court.

Cooperate with regional and international bodies:

- Invite and ensure unhindered and secure access, as a matter of urgency, to human rights monitors from the African Commission on Human and Peoples' Rights and the United Nations to investigate violations and abuses committed by all parties to the armed conflict. Specifically:
 - Extend invitations to the African Commission Special Rapporteurs on Prisons and Conditions of Detention, on Refugees, Asylum seekers, Migrants and Internally Displaced Persons, to the Working Group on the Death Penalty and Extra-judicial, Summary or Arbitrary killings in Africa, and to the Committee for the Prevention of Torture in Africa;
 - Accept outstanding requests from the UN Special Rapporteurs, including the UN Special Rapporteurs on the promotion and protection of human rights while countering terrorism, and on the rights to freedom of peaceful assembly and of association;
 - Extend invitations to the UN Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment, and on extrajudicial, summary or arbitrary executions, as well as the Working Group on Enforced or Involuntary Disappearances.
- Cooperate fully with preliminary examinations and, if initiated, any investigations by the Office of the Prosecutor of the International Criminal Court.
- Make a declaration under article 34 (6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights allowing individual access to the African Court on Human and Peoples' Rights.

Provide effective remedies to victims and families of victims, including by:

- Ensure that victims of human rights violations and violations of international humanitarian law have a right to reparation to address the harm they have suffered, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- Ensure the provision of compensation and rehabilitation to all those who have been subjected to arbitrary detention, torture or other ill-treatment. This should include immediate access to medical care and ongoing access to psychological support to those suffering from trauma.
- Ensure that families and dependants of victims of extrajudicial executions, other unlawful killings, and enforced disappearances obtain fair and adequate reparation

from the state, including financial compensation.

- Provide reparation for the harm suffered by the victims of mass atrocities in accordance with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. This should include establishing a national programme for reparation and other assistance to victims. This programme should consult with affected communities and civil society on the forms that reparations should take.
- Ensure the effective coordination of humanitarian relief programmes and reparation programmes, including by consulting with civil society and affected communities.
- Work with state governments to ensure the coordinated and effective restoration of state services to areas of north-east Nigeria that had been under Boko Haram control, prioritising the provision of security, justice, medical and education services.

Ensure all armed forces in Nigeria, including the proposed Multinational Joint Task Force (Multinational JTF), comply with obligations and standards under International Humanitarian Law (IHL), including:

- The setting up of robust oversight and accountability mechanisms to ensure their compliance with IHL. Specifically, as a member of the UN Security Council, the Government needs to ensure that any resolution in support of international forces in the fight against Boko Haram requires these forces to have such mechanisms in place.

TO THE NIGERIAN NATIONAL ASSEMBLY

- Introduce or amend existing legislation to domesticate international law and to bring national law into line with international standards. This should include:
 - Bring the Terrorism Prevention Act into line with international law including by repealing the death penalty and by providing that an individual may only be arrested on reasonable suspicion of having committed a criminal offence; that all individuals must be promptly brought before a court and charged with a recognisable criminal offence; and that law enforcement officers (including the military when exercising such a function) may only use force when strictly necessary and to the minimum extent required under the circumstances.
 - Ensure that torture is criminalised in compliance with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and punishable by sanctions commensurate with the gravity of the practice.
 - Ensure that domestic law criminalizes enforced disappearances and that domestic standards on arrest and detention comply with international human rights law and standards.

- Domesticate and implement the Rome Statute of the International Criminal Court.
- As part of the National Assembly's mandate to oversee the actions of the executive branch of government, relevant Senate and House Committees should investigate the government and military's conduct during the conflict with Boko Haram and should ensure that the Government:
 - Fully respects obligations under Nigerian's Constitution and international humanitarian and human rights law while carrying out its military operations against Boko Haram.
 - Fully implements in practice the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and its Optional Protocol.
 - Fully implements the Convention for the Protection of All Persons from Enforced Disappearance.
 - Meets its obligation to carry out a prompt, independent, impartial, and effective investigations into all allegations of war crimes and possible crimes against humanity and committed by the Nigerian military and members of the Civilian JTF with the aim of bringing suspects to justice in fair trials.

TO THE NATIONAL HUMAN RIGHTS COMMISSION

- Continue to regularly seek access to all places of detention in Nigeria and regularly visit and report on the legality of and conditions in detention. All reports should be made public.
- Exercise authority to investigate all allegations of human rights violations, including allegations contained in this report;
- Make every effort to keep and make public a comprehensive record of civilian casualties in the conflict.
- Ensure an effective and independent complaints system for extrajudicial executions, death in custody, enforced disappearances and torture; and ensure that all such suspected cases are duly investigated.

TO THE AFRICAN UNION (AU) ASSEMBLY OF HEADS OF STATE AND GOVERNMENT

- During the 25th ordinary session of the AU Summit in June 2015 in Johannesburg, South Africa, adopt a decision:
 - Acknowledge the extent and gravity of allegations of war crimes and possible crimes against humanity made by human rights organisations against the Nigerian military.
 - Call upon the Government of Nigeria to initiate urgently thorough, independent, impartial and transparent investigations into crimes under international law and to seek regional and international assistance and advice in the conduct of these

investigations and any subsequent prosecutions.

- Request the AU Peace and Security Council to urgently assess the conflict situation in north-east Nigeria and submit a report to the Assembly during the 26th session of the AU Summit in January/February 2016.

TO THE AU COMMISSION CHAIRPERSON

- Publicly express concern over reports of serious allegations of war crimes and possible crimes against humanity committed by the Nigerian military and call upon the Government of Nigeria to initiate an urgent, thorough, independent, impartial and transparent investigations into all allegations of crimes under international law and to seek regional assistance and advice in the conduct of these investigations and any subsequent prosecutions.
- Appoint a Special Envoy on the ongoing conflict in north-east Nigeria with the mandate to advise and work closely with the Nigerian authorities in ensuring urgent, thorough, independent, and transparent investigations into international crimes committed in the context of the ongoing conflict in north-eastern Nigeria.

TO THE AU SPECIAL ENVOY ON WOMEN, PEACE AND SECURITY

- Assess the impact of the ongoing conflict in north-east Nigeria on women and girls including the psychological impacts, with a view to making recommendations to the Government of Nigeria on appropriate reparations and rehabilitation mechanisms as well as to the AU Chairperson and the PSC on appropriate support needed to the Government of Nigeria.

TO THE AU PEACE AND SECURITY COUNCIL

- Assess the conflict situation and all allegations of violations of international humanitarian law, including allegations of war crimes and possible crimes against humanity committed by the Nigerian military in north-east Nigeria with a view to making recommendations on appropriate measures for strengthening safeguards against recurrence of violations as well as recommendations on accountability measures.
- Ensure that there are sufficient safeguards against violations of international humanitarian law and violations and abuses of human rights law in the operationalization of the mandate of the Multinational Joint Task Force (Multinational JTF), including ensuring that individuals reasonably suspected of allegations of such violations are excluded, pending investigations, from the command structure or operations of the Multinational JTF.

TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

- Issue a public statement expressing concern over repeated reports of serious allegations of war crimes and possible crimes against humanity committed by the Nigerian military in the north-east of the country.
- Further to its resolution passed on 14 March 2014, reiterate its call to the Nigerian

authorities to urgently initiate thorough, independent and effective investigations into crimes committed in the context of the ongoing conflict in north-east Nigeria not only by the armed group Boko Haram but also by Nigerian armed forces; and

- Pursuant to its protective mandate, urgently request a fact-finding visit to Nigeria, or if it has already done so, remind Nigeria to promptly respond to the request. If and when the request for the fact-finding visit is granted, the mission should be composed of the relevant special mechanisms of the African Commission.
- Pursuant to Article 58(3) of the African Charter, draw the attention of the matter to the Chairperson of the AU Assembly and the AU Peace and Security.

TO THE UNITED NATIONS SECURITY COUNCIL

- Ensure that any resolution in support of international forces in the fight against Boko Haram requires these forces to institute robust accountability mechanisms to ensure their compliance with IHL and human rights law.

TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL

- Adopt a resolution calling upon the Government of Nigeria to initiate urgently thorough, independent, impartial and effective investigations into crimes under international law by all parties to the conflict and to seek regional and international assistance and advice in the conduct of these investigations and any subsequent prosecutions.
- Request a report from the Nigerian government on steps taken towards the implementation of its obligation to pursue truth, justice, reparation and guarantees of non-recurrence, including through the investigation and prosecution of crimes under international law committed by all parties to the conflict.
- Ensure that it explicitly addresses human rights violations committed by Nigerian security forces and the Civilian JTF, as well as progress made in pursuing truth, justice, reparation and guarantees of non-recurrence, in its deliberations and requests for reports.

TO THE UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

- Continue to offer technical assistance and support to any independent investigations initiated by the Nigerian government, in particular assistance with the collection and preservation of evidence.
- Continue to inform the Council on human rights violations committed by all parties to the conflict including Boko Haram, the Nigerian security forces and the Civilian JTF, as well as progress made in holding perpetrators of crimes under international law and human rights abuses and violations accountable, in its periodic reports to the Human Rights Council on Boko Haram called for by Resolution A/HRC/S-23/L.2.
- Ensure proper monitoring and public reporting on human rights and international

humanitarian law abuses and violations in implementation of the United Nations Human Rights Up Front strategy for Nigeria.

TO NIGERIA'S INTERNATIONAL PARTNERS

- Ensure that any military co-operation with Nigeria, including training or technical advice, does not contribute to the commission of human rights violations or violations of international humanitarian law.
- All states supplying weapons, ammunition or any other military technology to Nigeria must first carry out a rigorous risk assessments against strict human rights criteria before authorising any military transfer; should the transfer take place, states must establish effective monitoring processes and put in place robust post-delivery controls to prevent diversion to unauthorised end-users. Any such transfers must be rapidly halted if arms are used to commit human rights abuses or violations of international humanitarian law.
- Publically call on the Government of Nigeria to urgently initiate thorough, independent, impartial, effective and transparent investigations into allegations of crimes under international law as well as to seek regional and international assistance and advice in the conduct of these investigations and any subsequent prosecutions.
- Strongly and publicly condemn the ongoing war crimes and crimes against humanity committed by all parties to the conflict.
- Vet all Nigerian military personnel recommended for training to screen out those responsible for gross human rights violations and fundamental breaches of humanitarian law.
- Review the impact of training in human rights and international humanitarian law provided to date and the systems of accountability within which trainees operate.
- Ensure that any military assistance to Nigeria is human rights compliant, particularly that assistance is not provided to units accused of crimes under international law and other serious violations of human rights, and that all training of units accused of such violations be reviewed. Further vet all Nigerian military personnel recommended for training;
- Call on Nigeria to implement safeguards against human rights violations by the military.

TO THE OFFICE OF THE PROSECUTOR, INTERNATIONAL CRIMINAL COURT

- Consider the information in this report as part of the Office's determinations during the ongoing preliminary examination of the situation in north-east Nigeria.
- Based on the information contained in this report and the evidence separately submitted to the Office of the Prosecutor, reconsider its decision that there is insufficient evidence to conclude that members of the Nigerian military have committed crimes against humanity.

- As part of the admissibility determination, discuss with the Nigerian authorities what steps the state is taking, under its primary obligations under the Rome Statute to investigate, prosecute and adjudicate crimes under the Statute, to investigate the crimes under international law committed by all parties to the conflict in north-east Nigeria documented in this report and, where there is sufficient evidence, to bring suspects to account through fair trials without the possibility of the death penalty.

APPENDIX 1 COMMUNICATIONS WITH THE GOVERNMENT

AMNESTY INTERNATIONAL'S COMMUNICATIONS WITH THE NIGERIAN GOVERNMENT ON THE CONFLICT IN THE NORTH-EAST

- 15 August 2012: Amnesty International sent a nine-page briefing containing the preliminary findings of the report *Nigeria: trapped in the cycle of violence* to government officials, including the National Security Adviser, the Minister of Justice, the Minister of Foreign Affairs and the Chief of Defence Staff. The findings included cases of extrajudicial executions, enforced disappearances and arbitrary arrests. The letter urged the government to investigate these cases.
- Between 29 October and 6 November 2012, the Secretary General of Amnesty International travelled to Nigeria and met government officials including the Attorney General of the Federation and Minister of Justice, the Minister of Foreign Affairs and a representative of the National Security Adviser to discuss the findings of Amnesty International's report. The report was launched on 1 November 2012.
- 28 November 2012: Amnesty International wrote to the Minister of Foreign Affairs, as well as the Permanent Secretary, to thank them for the meeting. The letter notes that findings were shared in meetings with government officials in July 2012 and a nine-page briefing was shared in August 2012 with the Minister of Foreign Affairs.
- 4 December 2012: In a letter, the Minister of Foreign Affairs expresses the "need for balance and objectivity in [AI] reports" and promises to look into concerns raised.
- 20 August 2013: Amnesty International wrote to the Attorney General, Inspector General of Police and Borno State Commissioner of Education, presenting findings from two visits to Nigeria to research Boko Haram's attacks on schools. The letter deplored the attacks and the lack of investigation and prosecution of those responsible.
- 18 October 2013: The Solicitor General and Permanent Secretary of the Federal Ministry of Justice replied to Amnesty International that the government had investigated and prosecuted those responsible for attacks on schools and funded the reconstruction of schools.
- 12 November 2013: Amnesty International called on Nigerian authorities to grant access to detention facilities for the NHRC in a public statement and letters to the Attorney General and Chief of Defence Staff. The letter reiterated Amnesty International's findings on deaths in custody, arbitrary arrest, incommunicado detention and detention without trial.
- 16 December 2013: the Chief of Defence Staff wrote to Amnesty International. The Chief of Defence Staff claimed that ungazetted military detention facilities were ad hoc solutions to Boko Haram's destruction of the previous gazetted detention facilities. The military had expanded one facility and the construction of additional facilities had been approved. The letter noted the conclusions of the Joint Investigation Team. It claimed deaths in mortuary records were those of people killed in combat, largely by Boko Haram. Deaths in detention were due to wounds sustained before arrest. It noted that the National Security Adviser has the authority to grant access to detention facilities.
- 31 March 2014: Amnesty International wrote to the Attorney General requesting an independent investigation into the extrajudicial executions of 14 March 2014.
- 8 April 2014: The Attorney General wrote to Amnesty International announcing an

investigation into the events of 14 March and requesting that Amnesty International share evidence collected in its research.

- 22 April 2014: Amnesty International wrote to the Attorney General, welcoming the investigation and outlining the minimum requirements of an independent and impartial commission of inquiry.
- 12 May 2014: The Minister of Foreign Affairs wrote to criticize Amnesty International's briefing. He denied that the security forces conduct arbitrary arrests or have "killed innocent civilians". He claimed the briefing was "one-sided" and questioned the credibility of the research and findings.
- 23 July 2014: Amnesty International wrote to President Jonathan presenting findings on extrajudicial executions, mass arbitrary arrests and incommunicado detention by the military. The letter called for an immediate, impartial, independent and thorough investigation. Copies were sent to the Attorney General, National Security Adviser, Chief of Defence Staff, Chief of Army Staff, Minister of Foreign Affairs, and the National Human Rights Commission.
- 7 August 2014: The National Security Advisor wrote to Amnesty International, saying that on 30 July 2014⁴⁰⁰ he had written to Amnesty International that an investigation had been initiated into the allegations of extrajudicial executions. A copy of the 30 July letter was also attached. The 7 August letter condemned Amnesty International for publishing its allegations, arguing that it would allow perpetrators to evade arrest and discourage witnesses from testifying.
- 8 August 2014: The Attorney General responded to Amnesty International's letter, stating that it had been "forwarded to the appropriate authority for investigation".
- 15 August 2014: The Chief of Army Staff wrote asking Amnesty International to meet the panel of inquiry investigating the extrajudicial executions.
- 21 August 2014: Amnesty International responded to the National Security Adviser's letters, welcoming the commitment to prosecute anyone found to have been involved in the alleged violation, but noting that a military investigation would not be independent. The letter enclosed Amnesty International's updated analysis of the video footage of extrajudicial executions, but said that the identities of witnesses could not be disclosed.
- Between 16 and 19 September 2014 Amnesty International met with government authorities and presented its findings relating to the conflict, requesting additional information. Meetings were held with representatives of the Attorney General, National Security Advisor, Chief of Defence Staff, Chief of Army Staff and Minister of Foreign Affairs, as well as with the NHRC.
- 6 November 2014: Amnesty International wrote to government officials to present its findings on the conflict in detail and requested additional information, pursuant to the Freedom of Information Act. The letters were sent to the Attorney General, National Security Advisor, Chief of Defence Staff, Chief of Army Staff and Minister of Foreign Affairs.
- 23 December 2014: Chief of Army Staff replied, stating that all responses will be coordinated by the AG. Chief of Defence Staff provided a detailed response to many of Amnesty International's questions. The information contained in these responses is reflected in this report. The letter made reference to a panel of inquiry set up to investigate Amnesty International's allegations and stated that a copy of report was attached. The report was not enclosed with the documents received by Amnesty International.
- 7 January 2015: The Attorney General's office wrote that he requested information from

⁴⁰⁰ The letter dated 30 July 2014 was received in hard copy on 19 August 2014. According to the envelope, it was sent on 5 August 2014.

different branches of government and that Amnesty International should exercise patience. The letter forwarded a copy of the Chief of Defence Staff's letter to AI and a copy of a letter from the Chief of Defence Staff to the Attorney General. The second letter makes reference to two enclosures: the rules of engagement and the second report by the Joint Investigation Team. This report was not enclosed with the letter received by Amnesty International.

- 10 February 2015: The NSA replied, saying that more time was needed to gather the necessary documents.
- 5 May 2015: Amnesty International wrote to the Attorney General requesting a response to our questions and to the Chief of Defence Staff with follow-up questions.

AMNESTY INTERNATIONAL PUBLICATIONS ON THE CONFLICT IN THE NORTH-EAST

- 1 November 2012: Amnesty International publishes the report *Nigeria: trapped in the cycle of violence* (Index: AFR 44/4/043/2012). It presents evidence of extrajudicial executions, enforced disappearances and arbitrary arrests and called for investigations into these violations. It also calls on Boko Haram to end its human rights abuses and for the government to protect civilians from Boko Haram.
- 4 October 2013: Amnesty International report, '*Keep away from schools or we'll kill you*': *right to education under attack in Nigeria*, (Index: AFR/44/19/2013), finds that many people had died in attacks on schools and thousands of children had been forced out of schools since the start of 2012. The report called on Boko Haram to stop its attacks on schools and on the government to protect schools and the right to education, and to investigate and prosecute those responsible.
- 16 October 2013: Amnesty International public statement, *Nigeria: Authorities must investigate deaths of Boko Haram suspects in military custody* (Index: AFR 44/025/2013), revealed that over 950 people had died in detention facilities run by the Joint Task Force in the first six months of 2013 alone. It called for thorough, impartial and transparent investigation into deaths in military custody. It also noted that the NHRC had not been granted access to detention facilities and that the National Committee Against Torture lacked the resources to inspect detention facilities.
- 31 March 2014: Amnesty International released a briefing, *Nigeria: More than 1,500 killed in armed conflict in north-eastern Nigeria in early 2014* (Index: AFR 44/004/2014), about the escalating violence and the attack on Giwa barracks. On 14 March 2014 Boko Haram attacked the barracks and released more than 1,600 people detained there on suspicion of being Boko Haram members. Later that day, the military extrajudicially executed more than 640 escaped detainees. The briefing found that the situation in north-east Nigeria had become a non-international armed conflict and that both sides had committed war crimes and crimes against humanity.
- 9 May 2014: Amnesty International issued a press release, *Nigerian authorities failed to act on warnings about Boko Haram raid on school*, revealing that Nigerian security forces failed to act on a four-hour warning of an imminent attack on Chibok, in which 276 schoolgirls were abducted on 14 April 2014.
- 5 August 2014: Amnesty International issued a press release, *Nigeria: Gruesome footage implicates military in war crimes*, and a Q and A, *Nigeria's military implicated in war crimes*, describing video footage, images and testimonies which provide compelling evidence of war crimes by the Nigerian military and Boko Haram.
- 18 September 2014: Amnesty International issued a report '*Welcome to Hellfire*' *Torture and other ill-treatment in Nigeria* (Index: AFR 44/011/2014) regarding torture by the Nigerian police and military. The report documented cases of torture in military detention

facilities in the context of the conflict with Boko Haram.

- 9 and 15 January 2015: On 3 January 2015, Boko Haram attacked Baga, killing hundreds and damaging or destroying more than 3,700 structures. A news flash on 9 January indicated that the attack could be the deadliest by Boko Haram so far. A press release on 15 January revealed satellite imagery and additional testimonies that showed the extent of the violence in Baga.
- 25 January 2015: Amnesty International issued a press release on the day of a simultaneous attack by Boko Haram on the capital of Borno state, Maiduguri, as well as the towns of Monguno and Konduga. Soldiers repelled the attacks on Maiduguri and Konduga, but lost control of Monguno to Boko Haram. The press release warned of the potential humanitarian cost if Boko Haram were to capture Maiduguri.
- 28 January 2015: An Amnesty International press release revealed that the Nigerian military was warned about impending attacks on Baga and Monguno and did not take adequate steps to protect civilians.
- 14 April 2015: Amnesty International launched a report on Boko Haram *'Our job is to shoot, slaughter and kill' Boko haram's reign of terror in north-east Nigeria* (Index AFR 44/1360/2015), finding that the group committed crimes under international law, including the abduction of more than 2,000 women and girls and, since 2014, killing more than 5,500 civilians.
- 29 April 2015: Amnesty International issued a press release welcoming the recovery of women and children from Boko Haram's bases in Sambisa Forest. The press release called for medical care, psychological support and privacy to allow the women and children to overcome the trauma of living under Boko Haram's rule.

WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, **AMNESTY INTERNATIONAL** CAMPAIGNS FOR JUSTICE, FREEDOM AND DIGNITY FOR ALL AND SEEKS TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD

WHAT CAN YOU DO?

Activists around the world have shown that it is possible to resist the dangerous forces that are undermining human rights. Be part of this movement. Combat those who peddle fear and hate.

- Join Amnesty International and become part of a worldwide movement campaigning for an end to human rights violations. Help us make a difference.
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STARS ON THEIR SHOULDERS. BLOOD ON THEIR HANDS.

WAR CRIMES COMMITTED BY THE NIGERIAN MILITARY

In the course of security operations against Boko Haram in north-east Nigeria, Nigerian military forces have extrajudicially executed more than 1,200 people; they have arbitrarily arrested at least 20,000 people, mostly young men and boys; and have committed countless acts of torture. Hundreds, if not thousands, of Nigerians have become victims of enforced disappearance; and at least 7,000 people have died in military detention as a result of starvation, extreme overcrowding and denial of medical assistance.

Amnesty International has concluded that these acts, committed in the context of a non-international armed conflict, constitute war crimes for which military commanders bear both individual and command responsibility, and may amount to crimes against humanity. Specifically, Amnesty International names five high-ranking military officials who were in charge of operations in north-east Nigeria from 2012 to date, as well as two Chiefs of Army Staff and two Chiefs of Defence Staff, who should be investigated for potential individual and command responsibility for these crimes. Amnesty International has handed over the names of these officers, as well as other officers not named in this report, and related evidence to the International Criminal Court.

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