

End of visit statement of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her visit to Nigeria

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Introduction

1. I conducted an official country visit to Nigeria from 19 August to 3 September 2019. I warmly thank the Federal Government of Nigeria for their invitation to visit the country, and the officials I met for their availability and support.
2. I also thank the United Nations (UN) Office in Nigeria and the UN country team. Their logistical and substantive support during my visit was invaluable.
3. The principal goals of my visit were to examine situations of violations of the right to life by State and non-State actors; the Federal State security strategy and the responses at Federal and State level to allegations of arbitrary deprivation of life. I considered violations allegedly committed by State security agencies and by non-State actors, particularly in the North East, Middle Belt and South of the country, as well as actions taken by the State to hold perpetrators accountable for their crimes. I also examined specifically the killings of women and members of the LGBTQI community, and, as part of my gender-sensitive approach to my mandate, I included a focus on Nigeria's criminalization of abortion.
4. During the twelve days of my mission, I held meetings with the Permanent Representatives of the Federal Republic of Nigeria to the United Nations Office in Geneva and in New York, the Deputy Permanent Representative of Nigeria to the African Union, representatives of the Ministry of Justice, the Ministry of Interior, the Ministry of Defence, the Ministry of Women Affairs and Social Development, the Department of Security Services, the National Commission for Refugees and IDPs., the National Security Advisor, the Director of Legal Services of the Federal Ministry of Defence, and the Commander of Operation Safe Haven, the National Human Rights Commission, and representatives of the State Emergency Management Agency (SEMA). I also held meetings with authorities at the State level, including the Security Adviser for the Governor of Benue State, the Commissioner for Defence, the Commissioner for Police and the Director of State Security Services of Benue State; the Attorney General of Plateau; and the Governor of Rivers State.
5. I met with members of the diplomatic community, international, regional and national human rights organizations; with women and men working for human rights at the grassroots level; with community and religious; media workers, including journalists; activists; LGBTQI individuals; internally displaced women and men; and with victims of human rights violations and abuse, including survivors, eye witnesses and family members whose relatives have been brutally killed.
6. These preliminary findings have been presented today to the authorities as part of the end of mission debriefing. The official final report will be presented to the Human Rights Council in June 2020. I am looking forward to engage and work with the Government and all relevant stakeholders to receive more information and clarification on these preliminary observations.

Overview

7. The overall situation that I encountered in Nigeria gives rise to extreme concern. By many measures, the Federal authorities and the international partners are presiding over an injustice-pressure cooker. Some of the specific contexts I examined are simmering.
8. The warning signs are flashing bright red: increased numbers of attacks and killings over the last five years with a few notable exceptions; increased criminality and spreading insecurity; widespread failure by the federal authorities to investigate and hold perpetrators to account, even for mass killings; a lack of public trust and confidence in the judicial institutions and State institutions more generally; high levels of resentment and grievances within and between communities; toxic ethno-religious narratives and “extremist” ideologies - characterised by dehumanization of the “others” and denial of the legitimacy of the others’ claims; a generalised break down of the rule of law, with particularly acute consequences for the most vulnerable and impoverished populations of Nigeria.
9. Over the course of its tumultuous history, Nigeria has confronted many challenges and much conflict, including military rule and mass killings. It has also experienced economic boom and considerable economic growth, particularly in the 1990s thanks to its oil resources. Perhaps it is this history that leads (some) commentators, analysts and even officials themselves to downplay or ignore the warning signs or to assume that no matter their gravity that these will be overcome. However, the absence today of accountability functionality is on such a scale that pretending this is anything short of a crisis is a major mistake. It is a tragedy for the people of Nigeria. Unchecked, its ripple effects will spread throughout the sub-region if not the continent, given the country’s central economic, political and cultural leadership role.

Localised and country-wide patterns of violence and killings

10. Weak rule of law and its brewing crisis are intertwined with, result from, and come on top of: a nation-wide population explosion and increased rates of extreme poverty which characterises the reality for roughly half of the Nigerian population.¹ This is exacerbated by the spreading environmental degradation and desertification evident throughout West Africa. It is also fed by the increasing proliferation of small and military-grade weapons made readily available as a result of regional instability and originating, according to some reports, from as far north as the Libyan conflicts.
11. These nation-wide and broader regional pressures applied against Nigeria’s diverse eco-political-economic systems are producing **localised systems** and **country-wide patterns of violence**, many of which are seemingly spinning out of control. They are claiming the lives of thousands and include, for instance, arbitrary killings in the context of:
 - The military conflict in the North of the country, against Boko Haram and splinter groups;
 - The conflict in the Middle Belt, along with some parts in the North West and South, between Fulani herdsmen and farming communities belonging to various ethnic groups;
 - Cultism in the oil-producing South States and other well-organised criminal gangs;
 - Local militias engaged in mining and cattle rustling in the North West, particularly Zamfara;
 - The repression of the Indigenous People of Biafra (IPOB), the Islamic Movement of Nigeria (IMN), and the Movement for the Survival of the Ogoni People (MOSOP);

¹ In June 2019, the World Poverty Clock reported that over 91 million (46.5%) of 200 million Nigerians were living in extreme poverty.

- The mass expulsion of slum dwellers in Lagos and elsewhere² and more generally greed motivated policies and interventions resulting in killings.
12. Country-wide patterns include police and military excessive use of lethal force in violation of applicable international standards, the lack of effective investigations, the absence of meaningful prosecution, the militarisation of policing – all of which are compounded by the lack of transparency and effective communication strategy over the vast majority of security issues, fuelling further distrust and break down of confidence in the security agencies.
 13. The Federal State contains these sub-systems of violence by relying largely on military and securitisation strategies. In some settings, these may have halted the progress of the insecurity at least on the surface and reduced the rates of killings (e.g. in the North East). However, in many others, the security response appears to have only added new grievances and fostered further distrust, without either curbing insecurity or better protecting the local population, particularly those living in isolated areas. This includes the conflict in the Middle Belt for instance.
 14. In yet other eco-political systems of violence, the security response is dangerously *quasi-prospective*, with individuals, communities and associations actively targeted for what they may have done decades ago, or for what they may do or may become, rather than for what they are doing or have done (e.g. members of the IMN, IPOB).
 15. Throughout the country, the securitisation strategy has also been used by local power-holders to enforce arbitrary and unlawful policies, decisions and action, such as the mass expulsion of city-dwellers living at the margins, to give way to money-making condominium or other private-public developments.
 16. Security responses lacking in fairness or justice are exacerbating the weaknesses of the policing and judicial institutions which lack the strength to resist the increasing pressure under which they are placed by virtue of the increasing criminality, conflicts and security hot-points.

No one left behind?

17. Over the last two weeks, I visited a number of the country's regions which are confronting an array of distinct challenges. In each locality, dozens and dozens of people lined up to speak to me. Some had travelled for hours from far away, isolated villages. Many sat for hours, waiting patiently for their opportunity to be heard: to have someone, somewhere, with some degree of legitimacy or official status, to whom they could at least describe what had happened to them and their loved ones. It was the case that some of those to whom I spoke had been interviewed by security authorities at least once immediately after an incident occurred. However, for most speaking to me was their first and only opportunity to report on the many incidents to which they were subjected or which they had witnessed.
18. Person after person in setting after setting in location after location told me that the Security forces had killed their loved ones, or that they failed to protect them even when warned of impending attacks and that they had failed to investigate and prosecute killings. This is the root cause of the widespread loss of trust and confidence and is leading to a proliferation of (vigilante) self-protecting armed militia.

² This includes the Otobe Gbame expulsion which saw 15 persons killed, including Daniel Aya and Elijah Avonda

19. That outcome is already taking hold. Chilling examples of so-called vigilante groups and “jungle justice”, particularly in the Southern part of the country, were described to me in which the local population takes matters of protection into their own hands. The resulting gruesome killings of alleged criminal gang members and others, only add, both in the medium to longer term, to the security challenges confronting Federal and State authorities.
20. With the adoption of the 2030 Agenda, Nigeria, along with other UN Member States, has pledged to ensure that “no one will be left behind” and to “endeavor to reach the furthest behind first.” Exploring this objective from the standpoint of my Mandate, I have found no signs that those the furthest behind are prioritized by the State or in any way brought along the SDG journey, at least as that journey pertains to the right to life and to the rule of law. Instead, the poorest and most impoverished Nigerians seem unable to access justice, remedies or reparations for arbitrary killings, while impunity flourishes and the rule of law remains tenuous.

Some positive developments

21. The extent and level of arbitrary deprivation of life in the North East, including arbitrary killings by security forces, appears to have gone down since 2016. While accountability for violations in the course of the conflict against Boko Haram has not yet been delivered, the decreasing number of allegations in 2018 and 2019 is a positive development which ought to be further examined, including for the purpose of identifying the lessons.
22. The National Human Rights Commission has become over time a strong institution that has delivered important work. Its full independence must continue to be respected and additional resources provided so that it can work to the full extent of its mandate. I have met within each federal and state-level institutions committed staff prepared to deliver human rights protection. The country benefits as well from a vibrant civil society supporting the most vulnerable segments of the population, including in their quest for justice. With a committed political leadership and with political will, much could be accomplished to address these concerns.

Searching for Accountability in the North East

23. The populations of the State of Borno are caught in the middle of violent attacks by Boko Haram, and its splinter groups, and the counterinsurgency operations of the Nigerian armed forces. Approximately 1.7 million people remain displaced by the conflict while 7.7 million are in need humanitarian assistance.³
24. The conflict’s estimated number of casualties since 2011 vary from 26,000⁴ to 37,500.⁵ According to the UN Secretary-General’s report on Children and Armed Conflict, in 2017 alone, a total of 881 children were killed in Nigeria; 620 attributed to Boko Haram and 261 to the Nigerian Security Forces.⁶ In the days preceding my visit to the State of Borno (Maiduguri) further attacks had occurred, in Gubio and Magumeri, causing casualties whose numbers are unknown as of today. As many as 341,000 new displacements were recorded in 2018. The Boko Haram insurgency continues to be the biggest driver of displacement in Nigeria⁷.

³ <https://www.unocha.org/nigeria/about-ocha-nigeria>

⁴ <https://www.cfr.org/nigeria/nigeria-security-tracker/p29483>

⁵ https://www.cfr.org/interactives/global-conflict-tracker?cid=ppc-Google-grant-conflict-tracker-031116&gclid=CjwKEAiAm8nCBRD7xLj-2aWFyz8SJAANalaq6ad0YJ5i6ZEa8KHLfiePs1wCPTk_vl1zcvMejD-BoCBKrw_wcB#!/conflict/boko-haram-in-nigeria

⁶ <http://undocs.org/s/2018/465>

⁷ <http://www.internal-displacement.org/countries/nigeria>

25. The current military strategy consists in the creation of “garrison towns” in which people are screened, some detained, while others are housed in consolidated “super camps”. With the exception of these towns and super camps, the State’s territory seemingly is emptied out in an effort to break up Boko Haram’s supply routes and making it impossible for the group to rely on local communities for their food and fighters. The strategy is criticized because of the unknown numbers of civilians who remain in inaccessible areas; the lack of protection afforded to them against Boko Haram attacks; and, the likely assumption that all those remaining are likely supporters of the insurgents.
26. The number of allegations of arbitrary killings and deaths in custody at the hands of the military forces has decreased over the last two years, a positive development which should be properly examined for learning purposes. However, there has been little progress reported in the securing of accountability and reparations for past massive violations of international human rights or humanitarian law.
27. On 8 March 2017, the military set up a special board of inquiry (SBI) in line with the provision of Section 172(1) of the Armed Forces Act CAP A20 Laws of the Federation of Nigeria, 2004. The SBI found that the delayed trials of Boko Haram detainees resulting in cases of deaths in custody constitute a denial of the detainees’ right to a fair trial. However, the SBI found no evidence of arbitrary arrests or extra judicial executions of detainees; a conclusion that runs contrary to the many allegations that I have received, some of which have been well documented. I intend to pursue these specific cases with the authorities.
28. As stated by one source, *“It is worse than frustrating for survivors and relatives of victims - who time and again take the risk to speak out - to see no progress and no change to their situation.”*
29. Information about violations of international human rights and humanitarian violations that I have received during the mission include the following:
 - a. In March 2014, at least 640 recaptured detainees from Giwa barrack were killed by soldiers of the Nigerian Army.
 - b. On 1 March 2018, the corpses of 28 men were brought to the mortuary; their bodies showing evidence of gunshot wounds. The men had reportedly been shot after a screening in Bama LGA.
 - c. Towards the end of 2018, two men (their identity is known) were allegedly extrajudicially killed near the village Lega Kura in Mafa LGA.
 - d. Older incidents include the killing of up to 200 civilians and the destruction Duguri town (Borno state) by the Multinational Joint Task Force, on 15 February 2012; the killing of approximately 200 people by soldiers of the Multinational Joint Task Force in Baga (Borno state) on 17 April 2013; and the killing of 35 men in Bama (Borno state) on 23 July 2013.
 - e. On 17 January 2017, the Nigerian air force bombed Rann IDP camp, set up by the Nigerian military while a humanitarian food distribution was underway. More than 150 people were wounded and reportedly more than 200 were killed, including three humanitarian workers.
 - f. It has been alleged that between 2011 and 2013 some 7,000 detainees died in military detention centres as a result of starvation thirst, disease, torture and lack of medical attention.
 - g. I met several children who had been subjected to detention, some for as long as 18 months, detained along with adults, when they were no more than 8 years old. In one such incident in Gumche Village (Mafa local authority), some 40 men, women, boys and girls (number is very approximate) were arrested. This included at least five male children. Of these 40 persons, one child and one adult died. The women and children were released after 18 months. The children

were sent to hospital before their release. It is alleged that all the men were transferred to Kahinji Barrack.

- h. Several women reported to me that more than 1200 men detained by the military during operations in Bama (Borno State) between June and December 2015 remained in military custody and without access to their families and legal representatives. These women have formed a group the KNIFAR Movement to agitate for the release and/or information on their loved ones.
30. Boko Haram intentionally killed and maimed thousands of civilians in attacks throughout the State of Borno and in parts of the States of Adamawa and Yobe.⁸ In 2017, Boko Haram carried out at least 65 attacks causing 411 civilian deaths.⁹ It has been alleged by a number of sources that Islamic State West Africa may have adopted a “heart and mind” strategy and is only targeting the security forces and not civilians. However, they recently were responsible for the killing of two ICRC midwives - Saifura Hussaini Ahmed Khorsa in September 2018 and Hauwa Liman in October 2018.¹⁰ They are still holding health worker Alice Loksha who was abducted alongside them.

Unacceptable criminalisation of humanitarian work by the United States and collective punishment of civilians.

31. It was brought to my attention that humanitarian agencies in receipt of US funds are required by the US government to certify that none of their goods or services including food will end up in the hands of those residing outside government-controlled areas, on the grounds that those people may be “terrorists”. Only one UN’s humanitarian agency (UNICEF) has refused to sign the clause with the result that their warehouses will run out of ready-to-use food by October and their health facilities will not be able to operate as of November.
32. I cannot emphasise strongly enough that such policies violate established principles of international humanitarian and human rights law and could amount to the deliberate starving of populations on the grounds of association.

A major security challenge in the Middle Belt, South and North Western States

33. The farmer-herder conflict may have become or will become Nigeria’s gravest security challenge owing to the following factors: 1) the number of casualties and the extent of the existing humanitarian crisis; 2) the rapid geographical spread of the violence and killings, extending now well into Southern and North Western States; 3) the ethno-religious dimensions of the conflict and the many toxic rhetoric that seek to explain and justify the killings; 4) the seemingly intractable problem of the shrinking arable lands as a result of desertification; 5) the sub-regional tentacles of the conflict with similar problems reported in other countries of the sub-region; 6) the potential for greater propagation of the conflict due to the accessibility of weapons and the existence of ethno-religious narratives.
34. The extent of the killings attributable to the conflict is unknown. It is alleged that 11,000 persons have been killed in the Plateau State since 2001 and that in 2018, the conflict had been six times

⁸ <http://undocs.org/A/HRC/30/67>

⁹ <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>

¹⁰ <https://www.icrc.org/en/document/nigeria-icrc-condemns-midwives-murder-appeals-abductors-spare-two-other-healthcare-workers>, <https://www.icrc.org/en/document/nigeria-health-worker-hauwa-mohammed-liman-executed-captivity>

deadlier than the Boko Haram insurgency, with over 1,300 people killed in the first half of the year alone.¹¹ People I have consulted have estimated that since the violence escalated in January 2018, some 300,000 people have fled their homes.

35. Allegations of human rights violations in the Middle Belt include the following:

- a. *Indiscriminate Killings by the Army:* on 4 December 2017, Nigeria's air force fired rockets at villages of Lawaru, Dong, Kodomti, Shafaron and Nzuruwei as a "warning" to deter spiraling communal violence, causing dozens of deaths.
- b. *Failure to and prevent and protect:* in 2018, 86 persons were killed in the villages of Palang, Tisan, Nghar, Ruku, Exlan in the State of Plateau, while Military officers were present and refused to engage with the attackers. Local civil society have filed several complaints with various authorities (Federal and State) alleging dereliction of duty. They only received one reply, from the National Human Rights Commission.
- c. *Military's complicity:* in the attack of Mkievowro, in Plateau, in October 2017, witnesses reported that "soldiers present were bribed by Fulanis Herdsmen." The attack resulted in the killing in the school where people had sought safety of some 29 persons. In this case, the soldiers were arrested and taken to the headquarters to be tried. However, none of the survivors, some two years later, had been asked to provide testimonies and they have not been to trial, if a trial did indeed occur.
- d. *Permanent Displacement:* I was not able to investigate the allegations that the attacks and killings of members of farming communities aim at permanently displacing them to leave the land for cattle breeding communities. The majority of farmers interviewed in the two provinces have alleged that their former communities or lands has been taken over by Herdsmen communities and in some cases, they have alleged that permanent structures have been established. IDPs camps have now been in place for years and there is limited evidence of any of the IDPs being able to return to their home, with a very few exceptions. The situation is therefore getting closer to permanent displacement.
- e. *Dire Humanitarian situation:* The humanitarian situation in the camps is dire. In one camp that I visited, the population had not received food for more than two months and were relying on help from others and little businesses or work to survive. None of the IDPs women I met had any idea as to the amount of food and non-food items they were entitled to or the days of distribution. The camp managers I spoke with also informed me they were not aware when the next delivery of food will reach the IDP camp. Needless to say, the lack of information emboldens corruption and diversion, and disempowers the most vulnerable displaced population, making it impossible for them to plan ahead.

36. In response to the worsening of the situation, the Federal Government adopted a National Livestock Transformation Plan which seeks to promote ranching and eliminate grazing. The government also stepped up its security measures. It has launched several military operations and deployed more police and military units to the troubled states.¹² However, the personnel is still inadequate to secure many areas, and are ill equipped to respond speedily to distress calls from remote villages or to deter attacks by dozens of heavily armed men.¹³

37. Some investigations into the killings appear to have taken place in the State of Benue. According to official figures, some 90 attacks in Guma, Logo, Agatu, and Okpokwu Local Government areas have been investigated between 2017 and 2019, resulting in a total of 190 persons arrested, 179

¹¹ <https://www.crisisgroup.org/africa/west-africa/nigeria/262-stopping-nigerias-spiralling-farmer-herder-violence>

¹² Ibid

¹³ Ibid

prosecuted, 76 convicted and 103 awaiting trial. It is however striking that none of the persons interviewed during the mission in Benue had been part of any formal investigatory or prosecution process; none had had access to remedies or reparations for their loss of income.

38. In the State of Plateau, an unknown number of alleged perpetrators have been brought to Abuja for federal level investigation and prosecution. But neither the authorities in the State of Plateau nor the victims are aware of the outcome of such processes.
39. The repeated failure to involve survivors and families in the investigation and prosecution, or the failure to report back to the affected communities is further fuelling toxic narratives dehumanising the others and framing the issue as one of invasions, and the breakdown of the necessary trust and confidence required for an effective response.
40. At the time of writing this report, the South East governors have announced that they are banning herdsmen who move about with AK-47, to set up a joint air operation to “flush out bandits from all forests” and to put measures in place to restrain movement of herdsmen and their cattle. With the possible exception of the first measure, these decisions are likely to trigger further violence.
41. I urge the Nigerian government, and the international community, to prioritise as a matter of urgency addressing the humanitarian crisis resulting from the conflict, developing a proper road-map towards the implementation of the Livestock Plan, and undertaking investigations of the attacks and the killings. Most importantly, it is imperative that displaced populations be provided with the opportunity to return to their lands, in total security, and with proper financial remedies and reparations. The crisis is regional. The United Nations should prioritise responding to the conflicts between nomadic cattle breeding and sedentary farming communities throughout the region, developing pilot projects relevant to each of the regions concerned.

Arbitrary Killings of members of the Islamic Movement of Nigeria (IMN)

42. The crackdown against the Islamic Movement of Nigeria started at the beginning of the 1990s and continues nowadays. In Zaria, Kaduna, between 12 and 14 December 2015, at least 300 followers of the Shi’a group were killed by the Nigerian Army. Their leader, Mr El-Zakzaky, and his wife were arrested after this event and remains to this day in detention, despite a judicial ruling ordering their unconditional release from detention. On 22 January 2019, the Kaduna State High Court ordered the Kaduna State Government to avail the IMN leader and his wife access to medical care. He allegedly sought medical care in India but was re-arrested upon his return.
43. In January 2016, the Kaduna State established a Judicial Commission of Inquiry to investigate the incident. The Commission found that the Nigerian Army committed serious human rights violations against IMN members, including disproportionate use of force and failure to keep record of recovered casualties. However, no further action was taken at the State or Federal level to investigate and prosecute those criminally responsible for the killings, one of the crucial recommendations of the Commission. I have requested further information about this to the Federal Ministry of Justice.
44. The continued detention of Mr El-Zakzaky and the allegations of deterioration of his health has prompted demonstrations by IMN members. Two of the most recent ones took place in July in Abuja, on 9 and 22 July, and were violently repressed by the police. The authorities have alleged that these demonstrations were violent and participants armed. During the 22 July demonstration, fatalities were reported, including that of the Deputy Commissioner of Police, as well as a journalist and an unknown number of IMN members. The police officer was reportedly

facing the demonstrators and trying to pacify them when he was shot on the back of his head. The Police claims the officer was shot by the protestors. However, no forensic evidence has been made public up to date.

45. After this demonstration, about nine IMN members are alleged to have died in custody. A total of 12 of the 60 IMN members that remain in detention, have gunshot wounds and fractures and are under the strict custody of the Police.
46. On 26 July 2019, the Federal High Court in Abuja declared the IMN to be an unlawful group. In August, the Nigerian Police issued a circular that directs police officers to 'ensure that identified leaders of the group and their structures are dismantled, and their activities contained'. This sets a dangerous precedent for the exercise of the right of freedom of religion and belief, and respect of fundamental liberties and the right to life.

Arbitrary Killings of Members of the Indigenous People of Biafra (IPOB)

47. Since 2015, members of IPOB have faced arbitrary arrests, torture and extrajudicial executions, predominantly in the context of demonstrations. Between 2015 and 2016, it is alleged that law enforcement officials killed at least 100 IPOB members in different events in Aba (Abia State), and Awka and Onitsha (Anambra State). On 29 and 30 May 2016, during a demonstration, the Nigerian military opened fire on IPOB members and bystanders in Onitsha. At least 60 persons were killed and over 70 injured, mainly shot in the back. The exact number of deaths remains unknown.
48. Between 12 and 14 September 2017, IPOB followers gathered at the family home of their leader, Nnamdi Kanu, in Afara-Ukwu (Abia State) to take part in a peaceful vigil. The military operation (as part of Python Dance II) carried out in the afternoon of 14 September 2017 is alleged to have resulted in the killing of 150 persons. The IPOB leader went in exile and some of its followers remain disappeared since then. No Nigerian soldiers were killed in the operation. Following this event, the Federal High Court in Abuja proscribed IPOB and designated it as a terrorist group.
49. During my visit, I met with several survivors of various security attacks and witness to killings. I have received a large number of allegations of killings by the Military Forces in 2017, 2018 and 2019. In addition, a number of those arrested are allegedly held *incommunicado* before being detained without charges. When charges are finally made, they include membership to a terrorist organisation, unlawful gathering and in some cases kidnapping.
50. It is alleged that not a single conviction against IPOB members has been secured since 2015, due to discontinuance or dismissal of charges. None of the killings of IPOB members have been investigated.
51. On March 8, 2018, the African Commission issued Provisional Measures, asking the Federal Government of Nigeria to rescind its decision branding IPOB and its members as terrorists as well as the proscription and "Not to take any further action so as to avoid irreparable damage to the Victim, IPOB and its members, pending the decision of the Commission on this Communication."
52. I am not aware of any steps taken to implement the ACHR interim decision at the time of writing these preliminary observations.

Arbitrary Killings of Ogoni People

53. Ogoni people have suffered attacks and intimidations from members of cult groups since the beginning of 2019. These groups reportedly operate in Rivers States without restrictions. Before and during the elections period cult members were empowered with arms, ammunitions and money to intimidate opponents, some of them were killed.
54. For instance, on 14 August 2019, around 7 a.m., members of a cult group attacked Ogoni people in the communities of Taabaa, Okuale and Nyokurou. On the 18 August, the same group attacked the communities of Opuoko and Lumene. A total of 20 persons were killed and houses were burnt, including the house of the Chairman of the Local Government of Khan and the one of the Royal Highness of Lumene. The inhabitants of seven family compounds are currently displaced from their communities. Complaints were filed before the police but the complainants have not received information about ongoing investigations or arrest of suspects.
55. It was also brought to my attention that Shell might soon resume its activities in the Niger Delta, a possibility that the Ogoni people resists. The alleged complicity of this company with the military repression against the Ogoni in the 1990s and the hanging of the 'Ogoni Nine' in October 1995 has never been properly investigated in Nigeria.

Widespread excessive use of force

56. The Government has acknowledged in 2016 that “in the course of security operations against Boko Haram in North-East Nigeria and recently in the context of countering militant and separatist groups like the Islamic Movement of Nigeria (IMN), the Indigenous People of Biafra (IPOB), and the Niger Delta Avengers, the Nigerian Military has been accused of extrajudicial killings, torture, arbitrarily arrest and detention”¹⁴. The report further states that all allegations of torture, extrajudicial killings and war crimes made against the Nigerian Military will be investigated.
57. The Constitution allows for a broad use of lethal force, including for the defence of property while the provisions of the Code of Criminal Procedure, the Administration of Criminal Justice Act, and the Police Order 237 authorize the use of force without adequately restricting the nature of the force and setting out the principles of necessity or proportionality. These laws were criticised in the [2006 Report](#) of then Special Rapporteur on extrajudicial killings (E/CN.4/2006/53/Add.4, paras. 47 and 105(c) and were singled out by the [UN Human Rights Committee Concluding observations on Nigeria](#) published on 25 July 2019 (CCPR/C/NGA/CO/R.2, paras. 26 and 27). I can only concur with these critiques.
58. There are countless allegations of excessive use of force by the police force. Officers of the unit established in 2006 to fight violent crimes including armed robbery and kidnapping (Special Anti Robbery Squad or SARS) have been accused of human rights violations, including widespread torture, in some cases leading deaths in custody, and extrajudicial killings. The majority of the cases occurred in Southern Nigeria.
59. A social media campaign called #ENDSARS was launched in November 2017, and led to street protests in some parts of the country. The movement prompted the immediate past Inspector General of Police to call for a reform of SARS.
60. In August 2018, the Acting President directed the NHRC to set up a Special Panel to conduct an investigation of the alleged unlawful activities of SARS in order to afford members of the general

¹⁴ Periodic country report for 2015-2016 on the implementation of the African Charter on Human and Peoples' Rights in Nigeria Available at http://www.achpr.org/files/sessions/62nd_os/state-reports/6th-2015-2016/nigeria_state_report_6th_2015_2016_eng.pdf

public the opportunity to present their grievances with a view to ensuring redress. Public hearings confirmed 95% of the allegations of extrajudicial killings by SARS. The findings of this Panel are yet to be made available to the public.

Violence against Women and Femicide

61. I welcome the adoption of the Violence against Persons (Prohibition) Act of 2015, dealing among other things with gender-based violence, but regrets that it applies only in the Federal Capital Territory and in those few states that have adopted the law. Several states do not have specific laws prohibiting sexual and gender-based violence. Yet, domestic violence and femicide are prevalent in Nigeria but largely under reported, making it difficult to determine the extent of the problem.
62. Maternal mortality rates in Nigeria are among the highest in the world, particularly in the northeast of the country, among women who are poor, living in rural areas and affected by conflict, due to their limited access to reproductive health care.
63. Unsafe abortions and lack of post-abortion care remain one the main causes of maternal mortality in Nigeria. Most of the abortions are clandestine and unsafe due to highly restrictive laws permitting abortion only in order to save a pregnant woman's life, and criminalizing it in all other circumstances. I fully support CEDAW 2017 recommendation that the country intensifies efforts to reduce the incidence of maternal mortality by legalizing and decriminalizing abortion. To the best of the Special Rapporteur's knowledge, no such steps have been taken. I consider all the deaths associated with unsafe abortion to constitute an arbitrary deprivation of life by the State.

Arbitrary Killings on the basis of alleged sexual orientation

64. The Same Sex Marriage (Prohibition) Act 2013 (SSMPA), which took effect in Nigeria in January 2014, has allegedly led to an increase in extortion and violence against LGBT people and imposed restrictions on nongovernmental organizations providing essential services to LGBT people in Nigeria.¹⁵ It is worth noting that Shari'a laws in 12 states of Northern Nigeria impose the capital punishment for the crime of homosexuality. Even if these laws have not been formally used they pose a direct threat to the right to life of LGTBI persons. I urge the Federal and State authorities to take the necessary steps to repeal them.
65. Members of the LGBTI community live in constant fear in Nigeria. Three alleged killings of individuals because of their perceived sexual orientation were reported, with the individuals beaten to death for belonging to the LGTBI community. In general, victims and families do not file complaints for these cases. I remind the authorities though that a formal complaint is not required for an investigation to be initiated into an unlawful death.

Death Penalty

66. I welcome the informal moratorium in place and the fact that executions have not being carried out since 2016.¹⁶ However, in August 2017, the Ogun state government announced that it would no longer maintain an informal commitment to refrain from authorizing executions. In 2018, 46

¹⁵ <https://www.hrw.org/news/2016/10/20/nigeria-harsh-laws-severe-impact-lgbt-community>

¹⁶ More than 2,600 people were convicted and executed between 1970 and 1999. However, the rate of executions dropped dramatically after the fall of the military government in May 1999. From May 1999 to 2006, Amnesty estimates that at least 22 people were executed. After a 7-year hiatus without executions, four death row inmates were executed in 2013- <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Nigeria#f7-1>

persons were sentenced to death. At the end of that year, Nigeria had the highest death row population in sub-Saharan Africa¹⁷.

67. According to reports received, several thousand Nigerians have been sentenced to death abroad,. I have received multiple allegations that the Nigerian consular officers in those countries fail to provide consular services to their citizens with a few notable exceptions which are welcomed and should become the norms.
68. I urge the Federal and State authorities to take steps towards formally abolishing the death penalty, including by ratifying the Second optional protocol. I also recommend that the authorities seek to enter bilateral agreement with countries where Nigerians are detained who are facing the death penalty to ensure full access to consular services.

Access to Justice

69. In his 2006 report, the then Special Rapporteur on extrajudicial killings pointed to “the remarkable inadequacies of almost all levels of the Nigerian criminal justice system” and highlighted, in particular, the absence of systematic forensic investigation, the absence of coroners’ inquiries; the repeated practice of adjournments “handed out with reckless abandon, resulting in thousands charged with capital offences being left to rot in prison” and the widespread practice of detention without charge.
70. Fifteen years later, similar patterns and allegations of similar practices were repeatedly brought to my attention, For instance, coroner’s laws in force in most Nigerian states, oblige the state authorities to investigate and determine the circumstances of all unnatural, sudden or violent deaths through an open, public inquiry.¹⁸ Section 6 of the law requires a District Coroner to investigate every death in custody. Yet, with a few anecdotal exceptions, the law is not implemented.
71. A large number of instances of repeated trials adjournments leaving people in legal limbo, and of people held without charge and without the possibility of bail for extensive periods of time, were also reported. These patterns were confirmed by lawyers. It has been further alleged that 70% of all inmates are awaiting trial, in a situation of overcrowded prisons and court congestions. I hope that the signing of the Prisons Act (Repeal and Enactment) Act (2018) by President Buhari will bring some reprieve to the situation.
72. Authorities themselves further undermine the institution of justice and the independence of the judiciary by not implementing court orders that relate to security agencies.
73. In response to the repeated and well documented allegations of extrajudicial killings and allegations of failure to protect, there have been more than 20 commissions of inquiry, panels, fact-finding exercises established by the Federal government, State governments, the military and even the NHRC.
74. The Government has acknowledged in 2016 that “in the course of security operations against Boko Haram in North-East Nigeria and recently in the context of countering militant and separatist groups like the Islamic Movement of Nigeria (IMN), the Indigenous People of Biafra (IPOB), and

¹⁷ <https://www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF>

¹⁸ In the southwest Nigeria, the Coroner’s Laws are based on the Laws of the Western Region of Nigeria, 1959 Cap 27; in the North, they are based on the Coroner’s Law, Cap 27, Laws of Northern Nigeria, 1963

the Niger Delta Avengers, the Nigerian Military have been accused of extrajudicial killings, torture, arbitrarily arrest and detention”¹⁹. The report further states that all allegations of torture, extrajudicial killings and war crimes made against the Nigerian Military will be investigated.

75. On 11 August 2017, a Presidential Investigation Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement (PIP) was established to investigate the military’s compliance with human rights obligations and rules of engagement across the country.²⁰ From 7 September to 6 October 2017, the PIP held a public hearing in Abuja. The last hearing reportedly took place on 8 November 2017, concluding the investigation. Its report was presented to Vice-President Osinbajo in February 2018 but has not been released publicly.
76. To the best of the Special Rapporteur’s knowledge, so far none of these aforementioned initiatives has led to investigations and prosecutions of any (senior or ordinary) members of military, police, civilian authorities or members of militias, such as the such as the Civilian Joint Task Force in Borno State. In most cases, the main findings and outcomes are not even made public, with the exception of those conducted by the national human rights commission.
77. This pattern was highlighted in [2006 by the then Special Rapporteur in his mission report](#). I can only concur with his conclusion, which remains most sadly accurate 15 years later: these various initiatives appear to be used mostly for whitewashing purposes, or to facilitate a “cooling of the political temperature” (E/CN.4/2006/53/Add.4, para 103). They do not appear to aim at identifying lines of responsibility, delivering accountability and justice, providing remedies and reparations, and determining and implementing structural or systemic changes.
78. The accountability crisis must be addressed. I will strongly recommend that the Government, under the leadership of its President, draws a road map to address the quasi systemic absence of effective investigations and prosecution and of access to justice, particularly for the most vulnerable Nigerians.
79. Every death or serious injury in police custody, and every alleged extrajudicial execution, ought to be adequately and impartially investigated by an independent body. Officers suspected of being responsible should be suspended pending investigation; those who use legitimate lethal force should be cleared and those who are implicated in extrajudicial executions should be dismissed and brought before an ordinary civilian court and guaranteed the right to a fair trial in accordance with international standards without recourse to the death penalty.
80. The Government should condemn publicly all extrajudicial executions and other unlawful killings, including of suspected armed robbers, and announce that perpetrators will be brought to justice in fair trials before ordinary civilian courts and without recourse to death penalty.

¹⁹ Periodic country report for 2015-2016 on the implementation of the African Charter on Human and Peoples’ Rights in Nigeria Available at http://www.achpr.org/files/sessions/62nd_os/state-reports/6th-2015-2016/nigeria_state_report_6th_2015_2016_eng.pdf

²⁰ https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf