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NIGERIA: AUTHORITIES MUST INVESTIGATE DEATHS OF BOKO HARAM SUSPECTS IN MILITARY CUSTODY

Hundreds of people may have died in detention facilities run by the Joint Task Force (JTF) in 2013. Amnesty International is calling on the Nigerian authorities to conduct a thorough, impartial and transparent investigation into the deaths, as a matter of urgency.

Amnesty International received credible information from a senior officer in the Nigerian Army that over 950 people died in detention facilities run by the Joint Task Force in the first six months of 2013 alone. A large proportion of these people are believed to have died in Giwa military barracks in Maiduguri, Borno state and Sector Alpha, commonly referred to as 'Guantanamo' and Presidential Lodge (known as 'Guardroom') in Damaturu, Yobe state - facilities used by the JTF to detain people suspected of being members of or associated with Boko Haram.

According to former detainees interviewed by Amnesty International, people died on an almost daily basis in Giwa barracks as well as Sector Alpha detention centres, from suffocation or other injuries due to overcrowding and starvation. Some suffered serious injuries due to severe beating and eventually died in detention due to lack of medical attention and treatment. Others were reportedly shot in the leg during interrogation, provided no medical care and left to bleed to death.

18 former detainees of Giwa barracks and Sector Alpha interviewed by Amnesty International also said they had witnessed soldiers taking detainees from their cells and heard them threatening to shoot the detainees. The detainees were never returned to their cells. In some cases, they may have been extra-judicially executed.

Another senior officer in the Nigerian Army in an interview with Amnesty International earlier this year said "Hundreds have been killed in detention either by shooting them or by suffocation. People are crammed into one cell. There are times when people are brought out on a daily basis and killed."

Amnesty International received information that on or around 19 April 2013, over 60 bodies were deposited by the military at the Sani Abacha General Hospital mortuary in Damaturu, Yobe state. The soldiers reportedly claimed that the bodies they were depositing were Boko Haram members who had been killed in a shoot out. According to a source close to the military interviewed by Amnesty International, the men were detainees in Presidential Lodge (Guardroom) detention centre in Damaturu, Yobe state, and had been taken out of their cells and shot and killed by soldiers.²

Bodies of detainees are regularly deposited by the military at public mortuaries in Maiduguri and Damaturu. In April 2013, Amnesty International delegates counted about 20 corpses lying on the

¹ In 2012, Amnesty International found that detainees at Giwa barracks were held in severely overcrowded conditions, including in an underground detention facility, which may be used for punishment. According to information received by Amnesty International, documented in their 2012 report, the conditions of detention in Giwa barracks in 2012 may have amounted to inhumane and degrading treatment prohibited by Nigerian and international law. According to information received by Amnesty International in 2013, the conditions of detention have not improved.

² Amnesty International raised this case in a meeting with senior officials at the Defence Headquarters in Abuja in July 2013, they denied any knowledge of the incident but agreed to investigate if a request was made in writing. Amnesty International sent details of the allegation in September 2013. No response was received.

ground in the compound of the State Specialist Hospital mortuary in Maiduguri. There were no visible gunshot wounds on the bodies. They looked emaciated. Eyewitnesses told Amnesty International that the corpses were deposited at the mortuary by the JTF.

Several different sources told Amnesty International that bodies were brought to the mortuary in Maiduguri by the JTF on an almost daily basis. They remained in the mortuary until it was full. The corpses were then taken away by the Borno State Environmental Protection Agency (BOSEPA) and buried in the cemetery.

Information received by Amnesty International indicates that information about deposited corpses is no longer being properly recorded by the mortuaries in Maiduguri or Damaturu. In some cases the mortuary staff are only allowed by the military to record the number of corpses deposited rather than the names and other personal details of the deceased. Post-mortem examinations are not being carried out at the mortuary.

Lawyers and relatives of ex-detainees told Amnesty International that in some cases families had no adequate information about their detained relatives and were often not even allowed by the military to collect the bodies from the mortuary, which meant that the corpses were buried by the respective state environmental sanitation agencies.

In a meeting with Amnesty International in July 2013, senior officials at the Defence Headquarters in Abuja said that they have records of all deaths in custody and investigate the circumstances of those deaths. However, they were unable to provide additional information on the investigation process.

No one interviewed by Amnesty International in Maiduguri and Damaturu about the deaths of their relatives or friends said they had been informed by the security forces or other government agency that an investigation would be or had been carried out, or were offered any apology. No suspected perpetrator is known to have been arrested and brought to justice for the deaths of detainees in JTF custody.

International standards require that any death in custody must be investigated thoroughly and impartially. The death of anyone in custody – or otherwise at the hands of security forces – merits an inquiry whose goal should be to identify the body and determine the cause and circumstances of death. This should include an adequate autopsy, as set out in the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Principle 9). Dependants or relatives of persons killed, or their legal representatives, are also entitled to an independent process, including judicial process, and publication of a report of the investigation. Whenever an individual dies in state custody, the responsibility of the state is to be presumed; the state must affirmatively provide evidence that it lacks responsibility to avoid that inference.

Federal Coroner's Laws, which are in force in most Nigerian states, oblige the state authorities to investigate and determine the circumstances of all unnatural, sudden or violent deaths through an open, public inquiry, and to investigate every death in custody. However, inquests into deaths in custody are rare in Nigeria.

Despite the existence of Nigerian laws and international standards requiring investigations of such deaths and prosecution of suspected perpetrators where deaths have been unlawful, relatives are often not informed about the death of their family members and investigations are rarely carried out.

Without a thorough, impartial and transparent investigation and appropriate prosecutions of suspected perpetrators, violations of the rights of detainees in military custody will continue.

There is an urgent need for regular and independent monitoring of JTF detention facilities, including the conditions, the treatment of detainees and their access to lawyers, the courts and family members.

The National Human Rights Commission is mandated to investigate human rights violations and visit places of detention. However, research by Amnesty International indicates that NHRC monitors have not been granted access to detention centres run by the military such as Giwa barracks in Maiduguri and Sector Alpha and Presidential Lodge in Damaturu, Borno and Yobe states.

The National Committee Against Torture is mandated to visit all places of detention in Nigeria and to promptly and impartially examine any allegation of torture. The Committee is yet to be given an adequate budget for carrying out their mandate.³

Amnesty International is calling for lawyers and human rights monitors to be granted access to the detention centres in Giwa barracks in Maiduguri and Sector Alpha and Presidential Lodge in Damaturu and all other facilities run by the JTF in northern Nigeria.

The Nigerian authorities must, as a matter of urgency, conduct a thorough, impartial and transparent investigation into allegations of deaths in military custody in northern Nigeria and the findings of such investigations must be made public. In cases of unlawful killing, suspected perpetrators should be brought to justice in a fair trial without recourse to the death penalty.

Background:

Amnesty International has previously documented the unlawful arrest and detention of hundreds of people by the JTF in response to the violence in some parts of northern Nigeria. Many have been detained incommunicado for lengthy periods without charge or trial, without being brought before any judicial authority, without access to lawyers and without proper notification of family members. Hundreds are detained without charge or trial at Giwa Barracks, 21 Armoured Brigade, Maiduguri⁴ and in 2013 Amnesty International interviewed several different sources who said that suspected Boko Haram members are also being detained in Sector Alpha in Damaturu, in harsh conditions that may amount to ill-treatment.

Several people interviewed by Amnesty International, who had been detained by the JTF in Maiduguri, said that they were denied access to medical care as well as vital medication while they were in detention.

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

Amnesty International also recorded accounts of people being arrested by the Joint Task Force (JTF) and then later found dead, or subjected to enforced disappearance.⁵ Investigations have rarely been carried out into allegations of violations by the security forces; in the few cases where investigations have taken place, the findings have not been made public.

³ Nigeria ratified the optional protocol to the Convention against Torture on 27 July 2009. The protocol aims at the better prevention of abuse of detainees and other prisoners through a system of confidential visits to all places of detention by independent international (UN Subcommittee on Prevention) and national (national preventive mechanism) experts. On 29 2009, a National Committee on Torture was inaugurated, designated as Nigeria's national Preventive mechanisms (NPM) under the Optional Protocol, "to investigate allegations of torture ,extrajudicial executions and other unlawful killings."

⁴ Incommunicado, arbitrary and unlawful detention (p.34, 37 and 39) in Nigeria: Trapped in the cycle of violence, Amnesty International, 02 November 2012 <http://www.amnesty.org/en/library/info/AFR44/043/2012/en>

⁵ Enforced disappearances (p.27) in Nigeria: Trapped in the cycle of violence; Amnesty International, 02 November 2012, <http://www.amnesty.org/en/library/info/AFR44/043/2012/en>

To execute someone who is in state custody or otherwise under the control of the authorities in the absence of a trial which fully meets international standards of fairness is a form of extrajudicial or summary execution, and constitutes a crime under international law for which those responsible must be brought to justice.

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

While Nigeria's security forces have a responsibility and duty to maintain public order and to pursue and bring to justice those responsible for human rights abuses, such law enforcement functions need to comply with Nigeria's national law and international human rights obligations.

Since 2012, Amnesty International has repeatedly raised its concerns with the Nigeria government about the treatment of detainees in military custody in northern Nigeria, the conditions of detention, the lack of access to military detention facilities by lawyers and human rights monitors and the flouting of the rule of law. In September 2013, Amnesty International shared its research findings with the Chief of Defence Staff and requested information from the Defence Headquarters in Abuja. No response was received.⁶

In a meeting in July 2013, senior officials at the Defence Headquarters in Abuja informed Amnesty International that the Chief of Defence Staff had set up a committee comprising representatives from all the security agencies and the Ministry of Justice, to investigate allegations of ill-treatment of detainees in JTF custody in northern Nigeria.

Amnesty International requested for the terms of reference for this special committee in order to direct complaints and share findings with members of the committee. The request was refused.

Nigeria is a party to major regional and international human rights treaties. The right to life, 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 and domesticated in 1983 in the African Charter on Human and Peoples' Rights (ratification and enforcement) Act Cap 10 Laws of the Federation of Nigeria.

The same rights are recognized and protected under the International Covenant on Civil and Political Rights (ICCPR), to which Nigeria acceded in October 1993. These rights must be respected and ensured even "in time of public emergency which threatens the life of the nation." The ICCPR also requires that all allegations of human rights violations are promptly, independently, impartially and thoroughly investigated.

The United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment specifies that "medical care and treatment shall be provided whenever necessary."

Individuals whose rights have been violated have the right to an effective remedy, which must not only be theoretically available in law but must function effectively in practice.

Nigeria also has specific legal and human rights mechanisms that seek to provide protection for victims against human rights violations by the state as well as abuses by non-state actors.

⁶ An official letter with a summary of Amnesty International's findings was sent to the Chief of Defence Staff in September. Also, in July 2013, Amnesty International delegates raised the concerns with senior military officers in a meeting in Abuja. The officers promised to respond to the concerns raised, but no response has been received.

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