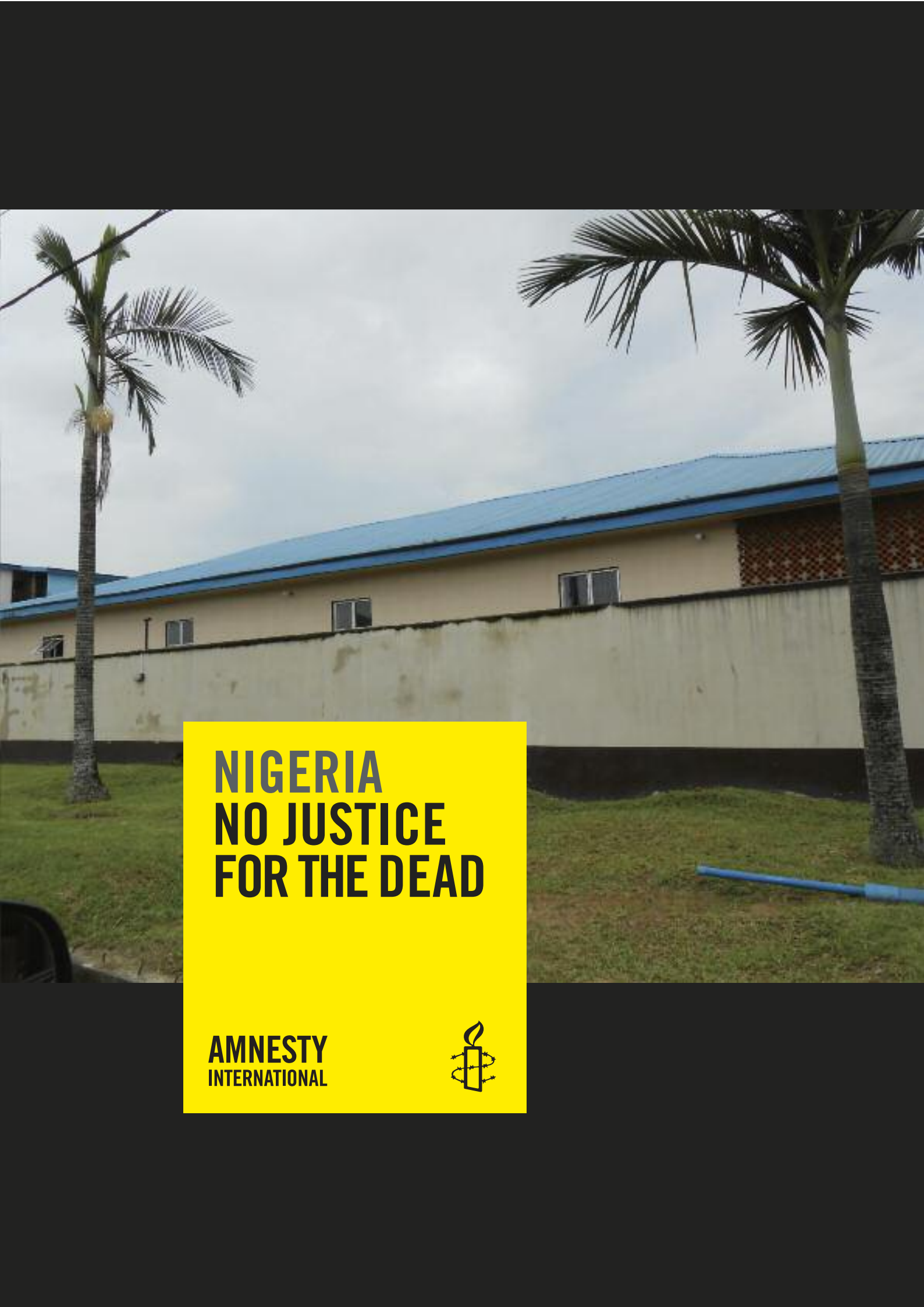




NIGERIA NO JUSTICE FOR THE DEAD

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The Nigerian justice system fails to adequately investigate fatal police shootings which, every year, leave families and communities suffering anguish and bereavement.

Victims' families rarely receive justice. Proper autopsies and inquests are either not carried out or are inadequate, or the results are not publicly accessible. Relatives are often left with no answers about the fate of their family members, despite the existence of Nigerian laws and international standards requiring investigations of such deaths and prosecution of suspected perpetrators where deaths have been unlawful.

In 2009 Amnesty International published a report documenting extrajudicial executions and other unlawful killings by police in Nigeria. This report revealed a pattern of police killing of hundreds of people every year. It found that many victims were unlawfully killed before or during arrest, while others were tortured to death in police detention. A large proportion of unlawful killings may have constituted extrajudicial executions. In some cases, people disappeared after being taken into police custody. Amnesty International's investigation found that the police acted with almost total impunity: killings by police and deaths in police custody were not investigated and there was almost no action to hold police officers to account.

In the three years since that report appeared, unlawful police killings have continued virtually unchecked and with wholly ineffective investigations, according to Nigerian NGOs such as the Legal Defence and Assistance Project. Although

some killings have been investigated and some police have been prosecuted, the vast majority are not the subject of adequate inquiry.

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

The death of anyone in police custody – or otherwise at the hands of the police – is a serious matter meriting an inquiry whose goal should be to identify the body and determine the cause and circumstances of death. It 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 (see box, right). There is provision in Nigerian law for such investigations under the various state Coroners' Laws, but most of these laws are outdated and are not effectively implemented. In practice, investigations into violent deaths are rare.

The lack of investigation in Nigeria means that many of the police officers who appear to have used unlawful lethal force enjoy impunity, seriously undermining human rights protections.



“There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death... The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.”

UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 9



INVESTIGATING DEATHS: GOOD PRACTICE

The investigation of an unnatural or unexpected death seeks to clarify the:

- identity of the deceased
- circumstances which led to the death
- medical cause of the death and contributory factors
- manner of the death (whether accident, natural death, suicide or homicide)
- lawfulness of the death
- responsibility (who caused or contributed to the death, if anyone)

Investigation of unnatural death is important in ensuring the rule of law. In the case of deaths of people in police custody or otherwise apparently at the hands of police, an inquiry should be obligatory, including an adequate post-mortem examination. This involves a careful external examination of the body and clothing, and dissection of the body. Photographs of the body should always be taken, and X-ray images in cases of death by shooting. Post-mortem examinations should be carried out by, or under the supervision of, a qualified pathologist before embalming since this procedure has a significant effect on the body and may destroy evidence.

This briefing examines the lack of accountability of police in Rivers State for the excessive, disproportionate and unnecessary use of lethal force and the lack of adequate investigation under the Rivers State Coroners' Law. It is based on interviews with lawyers, doctors, police officers, families of people killed by police, and NGOs. It describes the poor conditions of the main mortuary in the state capital, Port Harcourt, and argues for the need for adequate autopsies and identification of victims in all cases of violent death. Amnesty International believes that Rivers State is representative of other Nigerian states where violent deaths are inadequately investigated. Amnesty International's recommendations are relevant beyond Rivers State alone.

Above: Abonnema Wharf, Port Harcourt, one of the communities where unlawful killings by the police are alleged to have taken place. The photo was taken in April 2011, before the buildings were demolished and the community broken up in mid-2012.

Cover: The new mortuary, Port Harcourt, Nigeria, July 2012. © Private

BLESSING MONDAY – “YOU SHOT THE WRONG ONE”

Blessing Monday, aged 16, was one of a number of street children living around the Abali Park Flyover in Port Harcourt. On 8 April 2012, Blessing Monday was helping a trader when police arrived in response to a report of the theft of a bag. Some of the children immediately ran away. Blessing Monday hid behind a bus. According to witnesses interviewed by Amnesty International, when the police asked him to come out, he started to run away and did not stop when the police called. They shot him as he fled.

Witnesses saw a police officer kick the wounded boy as he lay on the ground, telling him to get up. They said that he replied, in obvious pain: “I am dying.”

Another police officer brought the trader whose bag had been stolen to where Blessing lay. He was heard to say that they had the wrong boy. The officer kicked Blessing again and then left for the police station with the trader, leaving the gravely wounded boy on the ground.

The other children put their friend into a barrow and took him to the nearby Teme Clinic. Shortly after they arrived, a nurse told them that Blessing Monday had died and asked them to remove the body. The children took him back to the place where he had been shot.

The police returned later that day and took the body away. Blessing Monday’s friends were angry

at his death and threw stones at the police, who subsequently came back and arrested 10 of them. The boys were asked to pay money for their release; five could pay and were released, the other five were charged with assault. (They were later released after intervention by the NGO, Human Rights, Social Development and Environmental Foundation, HURSDEF.)

Witnesses to the shooting told Amnesty International that they had not been interviewed by police and that they did not know where the body was. This reflects a lack of commitment to investigating the shooting and to ensuring that all relevant evidence is available to an inquiry into the death.

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

The use of lethal force by the police against Blessing Monday – where there was no threat to life by the suspect – was in breach of



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Nigeria’s obligations to protect the right to life and incompatible with international policing standards which require proportional use of force and assistance to those injured during police operations. Amnesty International is deeply concerned by the lack of a public inquiry into the killing as required under paragraph 2 of the Rivers State Coroners’ Law



(Cap. 34). No police officer is known to have been subject to investigation concerning the death. Blessing Monday's body is believed to be still in the mortuary at the Braithwaite Memorial Specialist Hospital in Port Harcourt.

Above: The flyover near Mile One market, Port Harcourt, is one of the locations where street children sleep at night. The children are forced to pay money to the police who regularly visit the area at night and threaten to arrest them if they do not pay.

SHOOTING OF GOODLUCK AGBARIBOTE, AGED 26

According to eyewitnesses, Goodluck Agbaribote had gone to bathe at a communal well at Abonnema Wharf waterfront community on the afternoon of 24 May 2012. At around that time, armed officers from the Special Anti-Robbery Squad (SARS) entered Abonnema Wharf. They came upon the men at the well and shot dead Goodluck Agbaribote – without warning, according to witnesses interviewed by the NGO HURSEDEF. A friend of Goodluck's fled, with police shooting at him as he ran.

When Goodluck failed to return home, a neighbour suggested to his wife Dinah that she go to Mile One Police Station to see if he was among several men arrested that afternoon. After a fruitless visit she returned to the community, where someone suggested she go to Braithwaite Memorial Specialist Hospital.

Dinah and her sister-in-law were told at the hospital that although some men who had been shot were there, her husband was not among them, and she should check the mortuary. When Dinah arrived and said she was the wife of a missing man, staff opened the mortuary; there she found her husband's body lying on the floor, tagged as "unknown". Families told Amnesty International that bodies brought to the mortuary and marked "unknown" are usually considered to be criminals or armed robbers by hospital staff and police. Dinah was extremely upset that her husband's body had been left on the floor, and pleaded with the mortuary staff to clean him before she left for home.

The police version of events given to representatives of the family is that officers were chasing armed robbers who had shot at them and they had returned fire.

In September 2012, despite a previous agreement made between the Commissioner of Police and representatives of the family that the body should be released, the State Criminal Investigation Department told them that Goodluck Agbaribote was a suspected armed robber and that his body had to be retained pending investigations. No further explanation was given.

After the intervention of HURSEDEF, the police agreed to release Goodluck Agbaribote's body in October 2012.



Above: Bodies piled on top of each other in the old mortuary at Braithwaite Memorial Specialist Hospital, Port Harcourt, 2012. This mortuary was closed for new admissions in July 2012 when the new one was opened.

Left: Dinah, wife of Goodluck Agbaribote, with one of their children. Goodluck Agbaribote was shot dead by police in May 2012.



INVESTIGATING DEATHS

According to the Rivers State Coroners' Law, whenever "any prisoner, or person in police custody, shall die from any cause whatsoever, a coroner... shall hold an inquest." (Coroners' Law, Article 4). Equally, any death arising from "violent or unnatural" causes must be the subject of an inquest "as soon as practicable" (Article 2). Should the coroner learn that there is sufficient evidence to merit a criminal investigation, he or she must ask the police to investigate. Although competent autopsies are important to any inquest, autopsies in Rivers State and in most of Nigeria are not usually carried out by qualified forensic pathologists. The Coroners' Law in Rivers State requires the involvement of a "Government medical officer or... any other medical practitioner"

(but not necessarily a qualified pathologist, let alone a forensic pathologist) to make an examination of the body.

A magistrate in Port Harcourt told Amnesty International that the Coroners' Law required immediate medical examination of the body before embalming. However, in practice, bodies are taken by police to the mortuary at the Braithwaite Memorial Specialist Hospital where they are promptly embalmed, according to hospital staff. This results in additional incisions in the body where preservation fluids are administered, makes the dissection of the body more difficult, and requires staff to work in an atmosphere affected by chemicals. It is widely recommended by international forensic experts that autopsies should take

place before embalming and should be carried out or supervised by a qualified forensic pathologist. There are no such pathologists in Rivers State.

According to hospital staff, about 200-250 autopsies are carried out at the Braithwaite Memorial Specialist Hospital each year.

In addition to the inquiry into the death itself, there may be a need for a police investigation to identify responsibility for the death and prosecution of the accused where the death was unlawful. Part of this investigation will require protecting and photographing the crime scene, documenting the body in situ and collecting evidence.

FOUR MEN KILLED IN POLICE CUSTODY

On 4 July 2008 armed police conducted a series of arrests in Abonnema Wharf waterfront community in Port Harcourt. Among those taken to Mile One Police Station was Godgift Ferguson Ekerete, aged 24. According to witness accounts, Godgift and three of those arrested were shot and killed in the police station that day. After spending up to a month in police custody, those who survived the shooting were subsequently charged with robbery and remanded in prison.

When Godgift's mother, Ala Ekerete, arrived at the police station later that day she learned that Godgift had been killed. Ala and her husband, Easter Ekerete, subsequently spent days visiting hospitals looking for their son. After a family friend advised them to check the mortuary at Braithwaite Memorial Specialist Hospital, they found the bodies of the four young men there, including their son, and confirmed their identities. Ala and Easter asked the Rivers State Commissioner of Police, through a lawyer, to release their son's body from the mortuary. Their request met with no response. They subsequently went to see the Commissioner, again with no result. They regularly visited the mortuary to see their son's remains until 2010.

In 2010, the Rivers State Director of Public Prosecutions ordered the release of Godgift Ekerete's body, which was being kept at the mortuary on police instruction. Subsequently, HURSEDEF asked for the body on behalf of the Ekerete family. However, the mortuary staff said they could not find it. On learning in 2011 of a planned mass burial of bodies held in the mortuary and concerned that the bodies of victims of police violence may be disposed of unlawfully, Amnesty International wrote to the hospital in May 2011; the projected mass burial was stopped. Meanwhile, Godgift Ekerete's body is still unaccounted for.



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Top: Easter and Ala Ekerete whose son, Godgift, together with three other men, was shot dead by police in the Mile One Police Station in Port Harcourt in July 2008. There has been no proper investigation into the deaths.

Above: Godgift Ekerete

POOR CORONIAL AND MEDICO-LEGAL INVESTIGATIONS

There are many obstacles to obtaining justice through proper coronial and medico-legal investigations in Nigeria, such as a lack of systematic forensic investigation and an absence of related criminal investigation resources such as a fingerprint database. Crime scenes are often not secured to allow effective investigation and there are no mechanisms for scientific investigation of relevant evidence in Rivers State. Medical and legal sources told Amnesty International that there is a practice of doctors signing death investigation reports without examining the body properly – part of a pattern of corruption and bribery which is pervasive in the criminal justice system in Nigeria.

When police shoot a person dead in the course of an operation, the body is usually taken to the mortuary and registered in the entry book with the name of the deceased (if known), other relevant details, and the signature of the police officer bringing the body. In many cases, the identity of the deceased is not known to the police and bodies are registered as “unknown”. In some cases the detention



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or death of a detainee is not acknowledged by the police and the body never reaches the mortuary. The Coroner should be informed by the police using Form B of the Coroners' Law and the Coroner can issue an order for a post-mortem examination using Form C of the Coroners' Law; these procedures are not always followed, according to NGOs. Despite the provision in law for the release of bodies after due investigations, Amnesty International found that the police can and do block the release of bodies to families for burial.

From a variety of sources, Amnesty International has built up a picture of practices at the "old" mortuary attached to the Braithwaite Memorial Specialist Hospital in Port Harcourt which was closed to new cases in July 2012. The cases examined by Amnesty International in this briefing were handled by the old mortuary at Braithwaite Memorial Specialist Hospital. Based on reports from a number of sources, Amnesty International fears that other mortuaries in the country also operate similar practices.

The hospital mortuary was overcrowded with bodies dumped in a pile on the

veranda or on benches, suggesting that there was little respect for the dead, and causing distress to visiting family members. In the largest storage area, bodies were stacked on shelves awaiting disposal.

This mortuary lacked many important facilities, including capacity for refrigerated storage. This meant that bodies were routinely subjected to preservation methods before autopsy. It also lacked a self-contained autopsy room, thus failing to provide adequate levels of security, safety and privacy. Autopsies were carried out on a single table in a roofed but open area. Procedures for DNA analysis, histology, toxicology, radiology and trace evidence gathering were not available at the old mortuary, although some were available in the hospital. Protective equipment such as gloves and aprons were not available to staff. International good practice requires that staff handling human remains wear appropriate clothing and personal protective equipment to ensure their health and safety.

There was no obvious accommodation for visiting family members to identify relatives. Family members spoke to Amnesty

Above: Abonnema Wharf waterfront community, Port Harcourt, Rivers State, Nigeria. The photo was taken in April 2011, before the buildings were demolished and the community broken up in mid-2012.

International about seeing their relatives dumped on the floor or stored on a bench with other bodies. There was one room for night duty staff to sleep in; this led directly to areas in which bodies were stored, imposing an unacceptable working environment on staff.

The new mortuary, situated nearby, is a public-private partnership between the state government and a commercial funeral company, and according to press reports has capacity for 800 corpses.

Building a new mortuary will not necessarily improve the practice of death investigation or ensure the dignity of the dead. Mortuaries are not intended to be long-term storage facilities, but rather to allow for prompt identification and determination of cause of death. When this has been established and a death certificate issued, bodies should be returned to the families for burial.

SHOOTING OF THOMAS MMABU NEELE AND OTHERS

In the early evening of 2 November 2011, officers of the Swift Operations Squad (SOS), a special police squad, went to Abonnema Wharf waterfront in Port Harcourt in connection with an alleged crime. When they arrived, they opened fire and three young men were shot dead. Godwin Etete, aged 18, and Ubong Udouo were killed in front of their neighbouring houses. According to eyewitnesses interviewed by the NGO HURSDEF, they were unarmed. Thomas Mmabu Neele, aged 20, was hit seemingly by a stray bullet while taking a bath in his house nearby.

Pastor Ken Neele told Amnesty International that when he heard about the shooting he went to several hospitals in search of his brother, Thomas, and finally found his body in the mortuary of Braithwaite Memorial Specialist Hospital. The mortuary register recorded that it was an “unknown corpse” brought in by a police officer attached to the SOS. Pastor Neele was profoundly distressed by the disrespectful handling of his brother’s body, which was lying at the bottom of a pile of other bodies. He understood that the label “unknown corpse” meant that the body would not be released and indeed he learned it was not possible for the family to take it.

A week after the shootings, representatives from HURSDEF and Amnesty International met with the Rivers State Commissioner of Police, who promised to look into the deaths. More than a year on, the bodies have still not been released, according to HURSDEF, and the families remain unable to bury their relatives.



Above: Pastor Ken Neele, brother of Thomas Mmabu Neele who was shot dead by police in November 2011.

FAMILIES PREVENTED FROM BURYING THEIR DEAD

Amnesty International has received complaints from several families in Rivers State whose relatives were killed by police or had died in police custody. They said that autopsies had not been conducted or bodies released to the family in reasonable time for burial. The families were left with no definitive account of the fate of their relative or of the police role in, and responsibility for, the deaths.

The Rivers State Coroners' Law allows a coroner to authorize the burial of a body “at any time after the body has been viewed”. This suggests that, provided an examination of the body has been carried out and the death certified, the body should be released



Far left: Autopsy room at Lagos State University Teaching Hospital. The facilities allow for 100 bodies to be stored and for up to six autopsies to be conducted at any one time. By contrast, the old mortuary in Port Harcourt in Rivers State had one table and no refrigerated storage capacity and still holds hundreds of embalmed bodies.

Left: Professor John Obafunwa, Chief Medical Examiner for Lagos.

DEVELOPMENT OF THE MEDICAL EXAMINER SYSTEM IN LAGOS STATE

The most recent coroners' law enacted in Nigeria – the Lagos State Coroners' System Law of 2007 – provides for the creation of the Office of Chief Coroner (a judge of the High Court) and for the appointment of District Coroners as well as a Chief Medical Examiner (CME) and District Medical Examiners (appointed by the CME, who must have qualifications and experience in forensic pathology). The Law provides that a coroner shall hold an inquest whenever he or she is informed of a death in a number of circumstances, including a violent, unnatural or other suspicious death or any occurring in police custody. The Chief Medical Examiner shall, among other things, perform a post-mortem examination following a death in these circumstances and "establish the cause and manner of death of any person within his District referred to him by an order issued by the Coroner."

The Medical Examiner is therefore required to determine not only the medical process by which death was caused, but also the manner in which the death came about. In addition, the Medical Examiner shall "write detailed post-mortem examination reports with formulation of conclusions, opinions or testimony to be tendered as evidence during inquest proceedings."

In Lagos, there are a number of centres where bodies are held prior to autopsy. In the Lagos State University Teaching Hospital, for example, which Amnesty International visited, the mortuary has refrigerated storage facilities which hold up to 100 bodies; the

autopsy room has six tables, allowing more than one autopsy to take place at the same time. Elsewhere in Lagos, Mainland Hospital can store 52 bodies and has two autopsy tables; Lagos Island General Hospital can hold 150 bodies and has four autopsy tables – and other hospitals within and outside Lagos have additional capacity. In all cases, the bodies are only preserved by embalming after the autopsy is completed – as specified by the Lagos Coroners' System Law (Article 16). At that point, bodies can be released to families for burial. Thus, detailed information about the cause of death can be obtained through an autopsy while minimizing any delay in the transfer of the body to the family for burial.

The 2007 Law constitutes an important step in death investigation in Nigeria. However, there is a need to strengthen the role of forensic pathology, including through effective training to address current shortages of forensic specialists. The absence of a proper forensic laboratory in Lagos hinders investigation and there is a pressing need for such a laboratory to process forensic evidence.

Professor John Obafunwa (above) is responsible, as Chief Medical Examiner for Lagos, for ensuring that proper autopsies are carried out as part of any inquiry into unnatural death, as prescribed by Lagos state law. According to Professor Obafunwa, the Coroners' Law raises public awareness of the need to investigate deaths, and in practice it can provide answers to families and contribute to justice for victims.

to the family. This underlines the importance of – at a minimum – implementing existing procedures for investigation, including a public inquest, and of carrying out post-mortem examinations by a forensic pathologist. Amnesty International believes that there is a need to revise the current Coroners' Law to more effectively provide for full public accountability in cases of unexpected, unnatural or violent deaths, including where police are involved.

By comparison, the Coroners' System Law in Lagos State provides that bodies can be released for burial after an autopsy has been completed and a cause of death certified as set out in the law. This process is carried out promptly after the death. (See box, right.)

CONCLUSION AND RECOMMENDATIONS

The government of Nigeria must take steps to prevent deaths resulting from excessive or unlawful use of force and firearms by the police; to investigate deaths where they occur, in line with internationally recognized procedures; and to ensure that appropriate disciplinary measures are imposed where merited.

INVESTIGATE DEATHS

The government should ensure that all complaints and reports of police killings are investigated promptly, impartially and effectively by an independent body charged with examining the lawfulness of police action. All deaths in police custody or as a result of police action should normally be subject to a detailed post-mortem

examination. A coroner's court with the necessary powers and resources should carry out an investigation to identify the deceased and inquire into the cause of death. The inquest should have power to require the attendance of witnesses, including police officers, and should have access to autopsy findings.

Mortuaries must be required to meet minimum standards satisfying the needs of the justice system, the families of the deceased and the mortuary staff. Staff must be adequately trained and provided with appropriate protective clothing during their work. Adequate storage facilities, staffing, equipment and space must be provided for post-mortem examinations.

In cases of deaths resulting from police action, relatives of the victim should have access to information relevant to the

investigation, should be entitled to request a doctor or lawyer to represent them at an autopsy, and should be entitled to present evidence to an inquiry.

A death certificate should be issued once the cause and manner of death have been determined following an appropriate post-mortem examination. Families should be able to bury their deceased relative once the certificate has been issued.

HOLDING THOSE GUILTY OF UNLAWFUL KILLINGS TO ACCOUNT

Those accused of criminal acts should be charged and brought before a court where they should receive a fair trial and appropriate sentence if convicted, without recourse to the death penalty.

RECOMMENDATIONS

The State and Federal Governments must:

- Give a clear and public statement that police must be accountable, committed to practice that conforms to international standards and best practice, and are subject to Nigerian law.
- Ensure that each State Coroners' law requires and provides a mechanism for a proper public investigation into every unnatural, sudden or violent death, including all deaths in custody. Investigations should establish the identity of the deceased, the cause and circumstances of the death and should benefit from a proper post-mortem examination of the body.
- Establish an independent review mechanism to investigate and examine alleged police misconduct and complaints regarding police practice, and particularly use of lethal force.

- Establish procedures for securing and investigating crime scenes. These should ensure the security of the crime scene, the location, documentation and collection of all relevant materials, their safe custody and, where feasible, transfer to a forensic science laboratory for investigation.
- Ensure that police respond to orders given by courts including requests to testify at inquests and to account for the whereabouts of any person previously in their custody.
- Evaluate the operation of the 2007 Lagos State Coroners' System Law with a view to revising the law and accelerating reforms of practice in other states that have outdated laws or laws that are not implemented effectively.
- Ensure that standards in mortuaries conform to international professional standards, and that staff are adequately trained, remunerated and provided with appropriate technology and safety clothing.

- Accelerate moves for a national forensic laboratory that can undertake scientific investigations into a range of criminal activities and can provide assistance to coroners and medical examiners in death investigations.
- Repeal laws and regulations, such as Police Force Order 237, which allow the police to use lethal force against suspects, protesters or detainees on grounds that they are trying to escape from, or evade, lawful custody, and bring practice into line with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Any use of lethal force should be proportionate and a matter of last resort, and only when strictly unavoidable to protect life.
- Publish an annual register to report fully, promptly and accurately on all deaths at the hands of police.

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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