



NIGERIA –

‘UNEARTHING THE TRUTH’:

UNLAWFUL KILLINGS AND MASS COVER-UP IN ZARIA

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1. EXECUTIVE SUMMARY

The Nigerian armed forces have long had a poor human rights record. On repeated occasions in recent years, they have perpetrated widespread and serious violations, some constituting war crimes, including hundreds of extrajudicial executions and unlawful killings, notably in the fight against Boko Haram in the northeast of the country.¹ In 2015 President Muhammadu Buhari pledged to investigate evidence of war crimes and possible crimes against humanity committed by the military, but to date no concrete steps have been taken to end endemic impunity for such crimes.²

This report documents one particularly egregious incident, unrelated to the conflict in northeast Nigeria, in which members of the Nigerian military unlawfully killed more than 350 men, women and children supporters of the Islamic Movement in Nigeria (IMN), a Shi'ite Muslim minority group. The killings took place in Zaria, 270km north of the capital Abuja, between 12 and 14 December 2015.³

After four months during which the Nigerian military denied the mass killing,⁴ the Kaduna State authorities admitted on 11 April 2016 that they had secretly buried the bodies of 347 people in a mass grave two days after the massacre.⁵

The exact number of those killed is not known but is believed to be higher than that admitted thus far, as hundreds IMN protesters reported missing since the incident remain unaccounted for and are feared to have been killed.⁶

The confrontation erupted on the afternoon of 12 December 2015 as hundreds of IMN supporters, some yielding batons, knives and machetes, blocked a section of the Sokoto road in front of the IMN headquarters (a religious-cultural centre, commonly referred to as Hussainiya Baqiyatullah or simply the Hussainiya),⁷ and refused to clear the road to allow the convoy of the Chief of Army Staff to pass.

The two sides have given sharply different accounts of the incident. The Nigerian army has claimed that

¹ Amnesty International, Nigeria: Stars on their shoulders, blood on their hands: War crimes committed by the Nigerian military, 3 June 2015, available at www.amnesty.org/en/documents/afr44/1657/2015/en/

² President Buhari replaced the military service chiefs appointed by his predecessor but no steps have been taken to investigate military officials allegedly responsible for crimes under international law. See: Amnesty International, Nigeria: No justice for the 640 men and boys slain by military following Giwa barracks attack two years ago, 14 March 2016, available at www.amnesty.org/en/latest/news/2016/03/nigeria-no-justice-for-the-640-men-and-boys-slain-by-military-following-giwa-barracks-attack-two-years-ago/

³ In addition, some 10 people were reportedly killed in the city of Kaduna on 15 December 2015, when security forces broke up a demonstration by IMN supporters protesting the killings in Zaria.

⁴ The Nigerian army denied the mass killings. It said seven protesters were killed and 10 injured in the initial phase of clashes in the early afternoon of 12 December 2015 outside the IMN headquarters: "about seven of the members of the group were shot dead and the COAS directed that the 10 wounded be evacuated to the Depot NA Medical Centre for treatment..." Vanguard, 16 December 2015, available at www.vanguardngr.com/2015/12/armyshiite-clash-nhrc-sets-up-probe-panel/ and other media.

⁵ The Kaduna State Government made the revelation in a submission to the Judicial Commission of Inquiry set up by the Kaduna Government to investigate the incident. See: Premium Times, 'Kaduna Govt says 347 Shi'ites killed by Nigerian troops given secret mass burial' 14 April 2016 available at www.premiumtimesng.com/news/headlines/201615-kaduna-govt-says-347-shiites-killed-by-nigerian-troops-given-secret-mass-burial.html

⁶ The IMN has made public a list of 217 named individuals, of whom 173 were reportedly killed in Zaria between 12 and 14 December and 44 others outside the city on 15 December, as well as a list of 482 others who remain unaccounted for and are feared to also have been killed in the incident. The list is subject to updating, as new information comes to light as scores who were arrested during the incident remain detained without access to their families or lawyers. Hence these numbers may change.

⁷ A centre used for ceremonies, lectures and other activities.

IMN supporters attacked the Chief of Army Staff's convoy with the intention of assassinating him,⁸ and that the soldiers opened fire in self-defence and that their actions were in line with the army's code of conduct and rules of engagement. The military has alleged that during the clashes IMN supporters shot and killed a soldier and injured others with machetes and other non-fire weapons.⁹

IMN members have denied the allegations and maintain that they had objected to the soldiers' presence opposite the Hussainiya at a time when a large congregation was gathered there for an important religious ceremony¹⁰ because they feared a repeat of an incident the previous year, which claimed the lives of some 30 IMN supporters, including three sons of the IMN leader.¹¹ IMN spokesman Ibrahim Musa acknowledged that IMN members refused to clear the road and denied passage to the Chief of Army Staff's convoy, and that some carried machetes and catapults, but denied that they had petrol bombs or that they assaulted military officers or had any intention of doing so.¹²

After failed attempts by army officers to convince IMN protesters to clear the road and allow the convoy of the Chief of Army Staff to pass,¹³ soldiers opened fire with live ammunition, killing at least seven protesters and injuring several others.¹⁴ A soldier was also reportedly killed in the clashes.¹⁵

Hours later, soldiers were deployed to other locations in the city where IMN protesters were gathered, notably at the residential compound of IMN leader Ibrahim Al-Zakzaky,¹⁶ located in the Gyallesu neighbourhood, some 3km away from the Hussainiya, where they reportedly killed more than 100 IMN supporters between the evening of 12 December and the morning of 14 December.¹⁷

Amnesty International has investigated the incidents which took place between 12 and 14 December at two locations in Zaria, around the Hussainiya and in Gyallesu neighbourhood, where most of the killings took place. Witnesses and relatives of victims interviewed by Amnesty International said they had seen dozens of people being shot dead by soldiers and that dozens of wounded protesters died when soldiers set fire to a building in the IMN leader's residential compound which was being used to treat the wounded and as a makeshift mortuary.

Yusuf, a young man who was shot and seriously wounded but who managed to escape told Amnesty International:

“Those who were badly injured and could not escape were burned alive. I could not help anyone and had to leave them behind because I could not walk because of my injuries. I managed to get away from the fire by crawling on my knees until I reached a nearby house where I was able to hide until the following day. I don't know how many of the wounded were burned to death. Tens and tens of them. There was also a room full of dead bodies and more dead bodies in the courtyard. They too were burned in the fire”.

The Nigerian army has not made public the number of those killed and injured at this and other locations during the 36-hour period, when most of the fatalities and casualties were reported. Senior medical personnel at Ahmadu Bello University (ABU) Teaching Hospital in Zaria told Amnesty

⁸ Nigerian Army Spokesman, Colonel Sani Usman, speaking to Sunrise Daily TV, on 16 December 2015, available at www.youtube.com/watch?v=CZDOyaODQkQ&eBC=ANyPxKp8pUxAi5g-D0nm-wgEUcZ-srqa2uBeY4-TJEV_BixlGftKUzXMUHL_QSq3ho3W9Vk9wdtL2u5dXJ-6Tomg3zv5fHenkw and <https://www.youtube.com/watch?v=VattgG8IRD8>

⁹ Major-General Ado Abubakar, Director of Administration of the Nigerian Army, and Brigadier-General Ayuba Ted Hamman, Acting Provost Marshal of the Nigeria Army, were quoted testifying to the Judicial Commission of Inquiry (appointed by the Kaduna State Governor to investigate the Zaria incident) on 6 April 2016 that IMN supporters had opened fire first. See: YNaija.com, “Shi'ite attack more violent than Liberian, Sierra-Leone wars” – Army official; 7 April 2016, available at <http://ynaija.com/shiite-attack-violent-liberian-sierra-leone-wars-army-official/>

¹⁰ Commemorating the birth of the Prophet Muhammad, known as the Mawlud.

¹¹ In the previous year attacks were perpetrated twice against IMN religious commemorations, claiming the lives of more than 50 people. See Background section for further details.

¹² IMN spokesman Ibrahim Musa speaking to Sunrise Daily TV show on 17 December 2015: <http://ynaija.com/weve-never-carried-arms-shiite-spokesperson-ibrahim-musa-speaks-on-army-attack-watch/>

¹³ Video: Nigeria army officers begging Shi'ite members over barricaded Zaria road, posted 16 December 2015: www.youtube.com/watch?v=qGPwef-P_eE

¹⁴ The Nigerian army said seven protesters were killed and 10 injured in the initial phase of clashes in the early afternoon of 12 December 2015 outside the IMN headquarters “about seven of the members of the group were shot dead and the COAS directed that the 10 wounded be evacuated to the Depot NA Medical Centre for treatment...” Vanguard, 16 December 2015, available at www.vanguardngr.com/2015/12/armyshiite-clash-nhrc-sets-up-probe-panel/

¹⁵ According to the deposition of the Nigerian Military to the Judicial Commission of Inquiry on 6 April 2016.

¹⁶ IMN leader Ibrahim Al-Zakzaky and his wife Zeinat Al-Zakzaky, were both seriously injured during arrest on 14 December 2016.

¹⁷ Witnesses told Amnesty International that they saw more than 100 bodies at and around the compound. The IMN list of those killed includes 144 people killed at the compound.

International that in this two-day period the hospital was “overwhelmed” by the number of casualties received and that the military requisitioned the areas around the hospital morgue, preventing the staff from accessing the area.

The Nigerian army has provided no evidence to substantiate its claim that IMN protesters attempted to assassinate the Chief of Army Staff or shot at his convoy, or that the protesters’ actions warranted the degree of force used against them. The military reported one fatality and one casualty among its ranks during the initial clashes.¹⁸

Video footage of the initial stage of the incident given to Amnesty International by the Nigerian military and available online shows IMN members – some carrying batons, knives and machetes – standing on the road and blocking it.¹⁹ IMN members, mostly young men but also some women, are seen taunting – but not physically attacking – army officers and soldiers. As some army officers are seen trying to reason with the protesters in what appears to be an attempt to convince them to clear the road, other soldiers armed with assault rifles and other firearms are visible in significant numbers around the officers and the protesters.²⁰ The video then cuts to the time after the Chief of Army Staff’s convoy has passed, briefly showing the road cleared of protesters, with some burning tyres on the empty road. The footage of the crucial moments, when, by the army’s own admission,²¹ some protesters were killed and wounded by the soldiers who moved in to clear the road, is missing from the video.

On the other hand, video footages reportedly shot on mobile phones by IMN supporters and posted on social media shows protesters scattering as shots are heard and bodies of unarmed civilians on the ground around the Hussainiya.

Crucially, the army has provided no information (video or other) about its operations during the following 36 hours at the Hussainiya and two other locations in the city where IMN supporters were killed and injured, most notably around Ibrahim Al-Zakzaky’s compound in the Gyallesu neighbourhood, where more than 100 people were reportedly killed.

Hundreds of IMN supporters were gathered at Ibrahim Al-Zakzaky’s compound – some who lived there,²² others who came from outside the city and had been there since the previous days in anticipation of the scheduled religious ceremony, and many others who had gone there after the incident at the Hussainiya because they could not reach the Hussainiya and because they wanted to protect their leader, who they feared could be arrested or harmed.

Residents of the neighbourhood, who are not IMN supporters and who expressed their dislike of the IMN, told Amnesty International that at around 10pm (on 12 December) soldiers with heavy armoured military vehicles took position at the top of a road leading to Ibrahim Al-Zakzaky’s compound, where hundreds of IMN supporters had barricaded themselves behind makeshift road blocks and were taunting the soldiers. Residents explained that they heard gun shots intermittently throughout the night and part of the following day, when residents were ordered by the army to leave the area.²³ “*There was shooting. At times it was more intense, louder. I never heard so much shooting. You couldn’t go out; you could be mistaken for one of Zakzaki’s people and get shot,*” a resident told Amnesty International.

It is not clear why the army launched such a “military operation” in response to a law and order situation which could and should have been dealt with by the police, and why the military resorted to using live fire against mostly unarmed protesters without any attempt to use non-lethal crowd-control means. The

¹⁸ On 11 April 2016 the military told a Judicial Commission of Inquiry, set up by the Kaduna Government to investigate the incident, that one soldier was shot and killed during the initial clashes and that one officer was injured in a machete attack by a female IMN supporter at the Hussainiya. No information was provided about the circumstances in which the soldier was killed, whether he was indeed shot by IMN protesters or had been victim of a friendly fire incident.

¹⁹ Video footage provided to Amnesty International by External Relation Officer of the 1st Division of the Nigerian Army on 19 February.

²⁰ See www.youtube.com/watch?v=qGPwef-P_eE

²¹ The Nigerian army said seven protesters were killed and 10 injured in the initial phase of clashes in the early afternoon of 12 December 2015 outside the IMN headquarters “about seven of the members of the group were shot dead and the COAS directed that the 10 wounded be evacuated to the Depot NA Medical Centre for treatment...” Vanguard, 16 December 2015, available at www.vanguardngr.com/2015/12/armyshiite-clash-nhrc-sets-up-probe-panel/

²² Dozens, possibly more, of young men lived in Ibrahim Al-Zakzaky’s compound, part of which also served as a kind of religious boarding school, and some served as his personal body guards (they are referred to by both IMN members and residents of the neighbourhood as *hurras*, the Arabic word for guards).

²³ Residents told Amnesty International that they were told by the army to come out of their houses at around noon on 13 December 2015. They said it took several hours for the army to check the residents’ identities, after which they were told to leave the neighbourhood.

Kaduna State Police Commissioner told Amnesty International he had no information about the incident, which he said had been a “purely military matter”.

Fatima, a 43-year-old mother of four, told Amnesty International:

“On Saturday [12 December] evening outside Sheikh [Ibrahim Al-Zakzaky]’s house, Nusseiba Abubakar, a girl aged about 18 or 20 who had been giving us slogans to chant, said she was going up the road to taunt the soldiers. She said that she was willing to be martyred. She was shot and killed as she walked up the road. She was just a secondary school student, what harm could she do to the soldiers? The following morning I went into the middle of the road to help two girls who had been shot and were lying one on top of the other. One was already dead and the other was still alive. I bent down to pick up the injured girl and as I stood up I was shot in my right breast. I was quite far from the soldiers and was not doing anything wrong, but they were shooting anyone.”

Video footage shot on mobile phones by IMN supporters or residents of the neighbourhood after the incident shows bodies of men with gunshot wounds and charred bodies strewn around the partly burned-down compound. The bodies appear to have been unarmed.

All available information, including consistent accounts from witnesses and survivors from the confrontations at the two locations investigated by Amnesty International, indicates that the military used unlawful and excessive force against IMN supporters, unlawfully killing hundreds of unarmed men and women who posed no threat to their lives or to the lives of others. Some of the IMN supporters were killed as a result of indiscriminate fire while others appeared to have been deliberately targeted.

Amnesty International believes that the conduct of the military raises a number of questions regarding the legality of its actions. There appears to be no evidence to corroborate the military’s claim that the IMN supporters attacked the military in the first incident at the Hussainiya. There is also no evidence of any attempt by the military to de-escalate the situation in an attempt to save lives and there is no explanation why a decision was made to use force, let alone lethal force, to disperse the crowd and clear the road rather than attempting other solutions to the immediate crisis. Further, it is evident that the army responded to a law and order situation with military force. It is also deeply concerning that the military resorted to using live fire against mostly unarmed protesters without any attempt to use non-lethal crowd-control means.

After the incident the military meticulously destroyed most of the evidence at the scenes of the clashes. Soldiers sealed the areas around Ibrahim Al-Zakzaky’s compound and around the Hussainiya in the afternoon of 12 December 2015 and for several days afterwards. Residents who had witnessed the shooting and seen bodies in the streets told Amnesty International that when they were allowed to return to the area, several days later, they found that Ibrahim al-Zakakyi’s compound had been razed to the ground and the rubble removed, bloodstains washed off, and bullets and spent cartridge removed from the streets. “*The streets were cleaner than usual and in the place where Zakzaky’s compound used to be was just an empty space,*” a resident told Amnesty International. Several other sites belonging to the IMN in Zaria, including the Hussainiya, a recently-created cemetery,²⁴ a shrine dedicated to Ibrahim Al-Zakzaky’s mother,²⁵ a media/film production centre and a research centre, were also completely or partially destroyed in the days following the incident.²⁶

The destruction of these sites, particularly Ibrahim Al-Zakzaky’s compound, where most of the killings are believed to have taken place, including some who died in the fire reportedly caused by the military, has destroyed evidence which could have been crucial for the investigation. Even if, as has been reported, this and several other structures which were demolished in the days following the clashes had been built on public land or without the necessary permits, any demolition should have been conducted in accordance with the law and should have been postponed until completion of the investigation in order to preserve the evidence.

²⁴ Three of Ibrahim Al-Zakzaky’s sons killed in 2014 and dozens of IMN victims of a 2014 bomb attacks are buried in this cemetery. The graves were not damaged, but the whole site around the graves was churned up by bulldozers.

²⁵ The grave of Ibrahim Al-Zakzaky’s mother was not damaged, but the shrine surrounding it was completely demolished.

²⁶ The demolitions were carried out by the Kaduna State Government Urban Planning Agency (KASUPDA), reportedly on orders of the military.

More than four months after the incident, the families of those killed have neither received the remains of the dead nor been informed of where they were buried.²⁷ The location of the bodies which witnesses saw littering the streets or strewn in the compounds, which were later bulldozed by the army, is undisclosed. Witnesses told Amnesty International that they saw piles of bodies outside the morgue of ABU Teaching Hospital in Zaria. Senior medical personnel at the hospital told Amnesty International that after the incident the military took over and sealed off the area around the morgue for two days, during which no one could access the area except for the army, whose vehicles were “coming and going”.

A witness told Amnesty International that he saw a large numbers of bodies outside the hospital’s mortuary on the evening of 14 December 2015, and another witness told Amnesty International that he saw several trucks and military vehicles diggings a large pit at the site of the suspected mass grave and unloading their cargo – which he said looked like a large number of bodies, before covering the pit with the dug-out soil.

Amnesty International has identified the location of one possible mass grave in the Mando area near the city of Kaduna, where the organization found a large area of soil churned up by diggers, with dried-up large vehicle tracks still visible at the time of the visit.²⁸ Satellite images of the site obtained by Amnesty International reveal an area of disturbed land of approximately 1000m². According to the satellite images the disturbance to the site occurred between 2 November and 24 December 2015.

Up to 200 protestors have been arrested and most of those who remain in detention have been charged with offences reportedly including: criminal conspiracy, attempted culpable homicide, unlawful assembly, disturbance of the peace, unlawful and wrongful restraint and unlawful possession of firearms.

The National Human Rights Commission, the Nigerian Bar Association, the Senate, the House of Representatives, the Council of Ulama, and the Nigerian military have all reportedly set up investigations into the Zaria incidents. It is not clear when these investigations will be completed and/or their findings published.

A Judicial Commission of Inquiry was established by the Kaduna State Governor in January 2016 to shed light on the incident.²⁹ The terms of reference for the inquiry provide, among other things, that it should determine the causes of the incident, to ascertain the number of persons killed, injured or missing, to identify all property damaged during the incident, to determine whether the measures taken were necessary, appropriate and sufficient in the circumstances. The Commission is also mandated with making recommendations for prosecution, further investigation or the convening of a separate inquiry, as well as on what policies might be adopted/actions might be taken to prevent future incidents. Amnesty International is concerned, however, about other aspects of the terms of reference, which provide, for example, that the inquiry should “determine the evolution of the Islamic Movement in Nigeria, including its organization, structure and assets... and how these contributed to its engagement with... the security agencies,” which would seem to be far broader than needed in order for the commission to make appropriate findings in relation to the incident, and raise concerns about the impartiality of the investigation.

The Commission initially delayed the beginning of its hearings until the IMN leader, Ibrahim Al-Zakzaky, who together with his wife was shot and severely injured by the military before being arrested,³⁰ was granted access to his lawyers.³¹ The Commission began its public hearings in early April 2016, after the

²⁷ The body of one victim was eventually handed over to the family in early April 2016. The victim had been shot and wounded in the Gyallesu neighbourhood between 12 and 14 December 2015 and had reportedly died of his wounds three days later, while in detention.

²⁸ Site visit by Amnesty International, February 2016.

²⁹ The Governor of Kaduna state announced the establishment of the Commission on 17 December 2015. The Commission was officially established on 16 January and inaugurated on 29 January 2016.

³⁰ Injuries sustained by Ibrahim Al-Zakzaky include a gunshot wound to the face, resulting in the loss of an eye, and impaired movement in his left arm and leg.

³¹ On 24 March the Judicial Commission of Inquiry announced that two of its lawyers had for the first time met with IMN leader Ibrahim Al-Zakzaky and that the work of the Commission could therefore proceed, dropping its previous requests for Ibrahim Al-Zakzaky to be granted access to his lawyers. See: AllAfrica, ‘Nigeria: Army/ Shi’ite Clash - Army Demands Speedy Proceedings’, 24 March 2016, available at <http://allafrica.com/stories/201603240369.html> and Nigerian Tribune, ‘El-Zakzaky alive, healthy, counsel tells commission’ 23 March 2016, available at <http://tribuneonline.ng.com/el-zakzaky-alive-healthy-counsel-tells-commission>. The IMN leader, Ibrahim Al-Zakzaky and his wife Zeinat Al-Zakzaky were allowed access to their lawyer for the first time on 1 April 2016, three-and-a-half months after their arrest.

IMN leader and his wife had finally been granted access to their lawyers. However, the IMN legal team withdrew from the Commission's proceedings in protest at the continued detention of the IMN leader without charge.³² Hearings before the Commission are ongoing and it is expected to conclude the investigation on 4 May 2016.

It is crucial that these incidents, which cost so many lives, be thoroughly, independently, impartially and effectively investigated. The Judicial Commission of Inquiry should ascertain, with strict impartiality:

- the manner in which decisions were made by the army to disperse the crowds and the application of force to that end, including whether the measures taken were lawful;
- the exact circumstances in which protesters were killed at the different locations;
- the fate of those who were killed or injured and those who are missing;
- the whereabouts of the victims' remains;
- the extent of damage and destruction to property.

The Commission should be granted the power to summon witnesses and compel concerned parties to hand over relevant information and evidence,³³ and, as provided for by its mandate, should recommend or refer for prosecutions all those reasonably suspected to be criminally responsible with a view to holding them accountable through fair trials without recourse to the death penalty. The Commission should also make public the results of the inquiry, while ensuring that appropriate measures are taken to protect witnesses and victims.

Without this, the culture of impunity that has allowed and encouraged gross human rights violations, including war crimes and crimes against humanity, to be perpetrated will remain pervasive.

³² Newsdiaryonline, 'Zaria Clash: Lawyers Representing Shiites Withdraw From Commission Of Inquiry', 22 March 2016, available at <http://newsdiaryonline.com/zaria-clash-lawyers-representing-shiites-withdraw-from-commission-of-inquiry/>

³³ The terms of reference for the inquiry do not make it clear whether the commission has been granted these powers. However, such powers would be necessary to ensure that all relevant information is brought before the tribunal for its consideration.

2. METHODOLOGY

This report is based on field research mission carried out by Amnesty International in Kaduna state and the Federal Capital Territory (FCT) in February 2016 and other research carried out before and after the visit. In Zaria, Kaduna State, Amnesty International delegates visited three sites where scores, possibly hundreds, of men, women and children from the Shi'ite community were killed and injured in clashes with the Nigeria military between 12 and 14 December 2015, and which were subsequently razed to the ground by the Nigeria military, in order to investigate the circumstances of the killings. The delegates also visited three other sites, which were likewise destroyed, as well as the hospital where some of the dead and injured were taken after the incident and the site of an alleged mass grave in the Mando area.

The Amnesty International delegates interviewed 92 people, including victims, witnesses from the Shi'ite and other communities, relatives of victims, residents of the areas where the incidents took place, lawyers and medical personnel. The names and certain details of victims and other affected persons and witnesses whose testimonies are included in this report have been withheld or changed, as have the dates and locations of the interviews, in order to protect their identity. This was necessary given that the overwhelming majority of those interviewed expressed concerns for their and their relatives' safety.

Amnesty International delegates met with Nigerian officials, including the Commissioner of Police in Kaduna State and the External Relation Officer of the 1st Division of the Nigerian Army. Amnesty International also requested – but did not obtain – meetings with the General Officer Commanding (GOC) of the 1st Division of the Nigerian Army, whose forces were in charge of the military operation in Zaria, the Governor of Kaduna State, and the Kaduna State Attorney General.

In compiling this report, Amnesty International examined photographs and video material, some of which was provided by local residents and the Nigerian military, and some of which was publicly available, cross-checking these sources of information with the accounts of victims and witnesses, media reports and other open-source information.

The organization's delegates also visited Gabari, a village near Zaria, where on 11 December 2015 clashes took place between IMN supporters and other residents belonging to the Darika community (part of the Sufi Muslim community), resulting in the killing of at least one IMN supporter.

Neither the Judicial Commission of Inquiry into the Zaria events, established by the Kaduna State Government, nor the National Human Rights Commission had yet completed their investigation at the time of writing and their findings could therefore not inform this report.

Amnesty International wishes to thank all those who provided information for this report.

3. BACKGROUND

The IMN is a Shi'ite religious and political organization whose leader, Ibrahim Yaqub Al-Zakzaky, has been a proponent of Shi'a Islam in Nigeria since the 1980s, calling for "an Islamic revolution to create an Islamic state in Nigeria and end Western influence in the country".³⁴ The IMN says it "gets inspiration from Islamic Iran in its struggles and activities", but denies being funded by Iran.³⁵ The organization's headquarters is located in Zaria (Kaduna State), where Ibrahim Al-Zakzaky lives, 270km north of the capital Abuja and most of its members are based in Kaduna and other states in the north of the country.

The IMN has had uneasy relations with the Nigerian authorities for decades and its leader has been jailed several times by successive regimes, spending a total of nine years in prison since the mid-1980s, mostly accused of sedition or civil disobedience. IMN members have alleged that the Nigerian authorities want to destroy the IMN,³⁶ while Nigerian authorities have accused the IMN of disregarding the law and operating as a state within a state.³⁷

Processions, demonstrations and other activities organized by the IMN, usually without obtaining the necessary permits and at times blocking public roads, have resulted in confrontation with the Nigerian authorities and strained relations with other communities. In 2007 the IMN headquarters in the northwest city of Sokoto was destroyed by the military, prompting the move of the organization's headquarters to Zaria, Ibrahim Al-Zakzaky's hometown.³⁸

In one of the most serious incidents in recent years, a confrontation between the military and IMN supporters during a yearly "Jerusalem Day" rally in Zaria on 25 July 2014, left some 30 protesters and bystanders dead and dozens wounded.³⁹ Among those killed were three sons of the IMN leader,⁴⁰ who after the incident called on his followers to exercise calm and restraint and not to engage in revenge.⁴¹ The Nigerian military promised to investigate the incident, but to date no one is known to have been brought to justice. Another IMN procession, in Kano on 3 November 2014, was targeted in a suicide bomb attack.⁴² IMN leaders said that 15 members were killed in the suicide attack and a further six

³⁴ International Crisis Groups, 'New Risks on Nigeria's Shiite Fault Line', 16 December 2015, available at <http://blog.crisisgroup.org/africa/nigeria/2015/12/16/new-risks-on-nigerias-shiite-fault-line/>

While studying at Ahmadu Bello University in Zaria in the late 1970s, Ibrahim Al-Zakzaky was a prominent student leader of the Muslim Brothers in Nigeria (also known as Nigeria's Muslim Students Society).

³⁵ IMN, 'Who Funds the IMN?', 18 March 2016, available at www.islamicmovement.org/index.php?option=com_content&view=article&id=2550:who-funds-the-imn&catid=41:frontpage

³⁶ IMN spokesman Ibrahim Musa speaking to Sunrise Daily TV show on 17 December 2015, available at <http://ynaija.com/weve-never-carried-arms-shiite-spokesperson-ibrahim-musa-speaks-on-army-attack-watch/>

³⁷ BBC, 'Investigating clashes between Nigeria's Shia and the army', 19 January 2016, available at www.bbc.com/news/world-africa-35342215; Leak Times, 'Zaria Massacre: We Don't Owe Anybody Any Apology- Nigerian Army', 7 January 2016, available at <http://leaktimesng.com/2016/01/kaduna-massacre-we-dont-owe-anybody-any-apology-nigerian-army/>

³⁸ The destruction of the IMN headquarters took place in the context of heightened Sunni-Shi'ite tensions, after the killing of a prominent local Sunni Imam, even though there is no evidence suggesting that the IMN was involved in the killing.

³⁹ Quds (Arabic term for Jerusalem) Day rallies started in 1979 in Iran and are organized yearly, mostly by Shi'ite Muslim organizations, on the last Friday of the month of Ramadhan (the Muslim month of sunrise-to-sunset fasting).

⁴⁰ Najj, 'Sheikh El-Zakzaky Shocked By Clash Between Shi'ites And Nigerian Troops In Zaria', August 2014, available at www.naij.com/70318.html

⁴¹ IR, 'Zaria violence: Pandemonium persists as sect leader calls for calm', 27 July 2014, available at <http://igbokwenuradio.com/zaria-violence-pandemonium-persists-as-sect-leader-calls-for-calm/>

⁴² The IMN organizes a yearly Arba'een procession to commemorate the death of Imam Husain, the grandson of the Prophet Muhammad, in the battle of Karbala (in present day Iraq) in the year 680 AD. Millions of Shi'ites from all over the world take part in the yearly Arba'een

were killed by soldiers who opened fire on the Shi'ite faithful who were sheltering after the suicide attack. The suicide attack was later claimed by the Boko Haram armed group but the IMN leadership has accused the military of complicity.⁴³ Fears of further attacks, arising from these incidents, are widely cited by IMN leaders as a reason for having opposed the presence of the military near the IMN headquarters on 12 December 2015.

Tensions between the IMN and part of the majority Sunni Muslim community, some of whose members view Shi'ite Muslims as heretic, have increased in recent years,⁴⁴ seemingly commensurate with IMN's growing visibility and public activities. The IMN has established dozens of religious schools (known as Fudiyah), which some see as vehicles to recruit members including among underprivileged youth, and publishes a wide range of written and audio-visual material, including a widely-read newspaper in the Hausa language.⁴⁵ Growing tensions between the IMN and part of the Sunni community may also reflect the growing tensions and conflict between Shi'a and Sunni communities in other parts of the Muslim world in recent years.⁴⁶

Dozens of Sunni residents of Zaria, the majority of those interviewed by Amnesty International and most of whom live in the same neighbourhood as the IMN leader, said they were frustrated and inconvenienced by the behaviour of IMN members in the neighbourhood and beyond.

Umaru, a resident of the Gyallessu neighbourhood, told Amnesty International:

“Zakzaky’s boys, his guards as they call them, blocked off roads in the area every time he moved in or out of his house, without regards to the rest of the neighbourhood’s residents, and imposed a speed limit; it was forbidden to drive a motorcycle a bit fast near his house.”

Musa, another resident, said:

“They did not allow soldiers or police vehicles to come into the neighbourhood; even those forces’ members who live here could only come in as civilians. The authorities accepted this for years, allowing the Shi’ite to impose their diktat over the whole neighbourhood. This was wrong and it had to change.”⁴⁷

Residents of other areas also said they had been inconvenienced when the IMN holds their processions, especially the yearly Arba'een procession, causing traffic jams and long delays for motorists. Others expressed animosity towards the IMN on ideological and political bases, without citing any specific examples of problems they had personally experienced. Graffiti scribbled on the walls of some houses in the Gyallessu neighbourhood read *“Gyallessu is safer without Zakzaky”*.

IMN members, for their part, voice similar complaints though mostly against certain government and military authorities, whom they accuse of marginalizing, targeting and discriminating against the Shi'ite community. IMN supporters also told Amnesty International that they feared being attacked by militant Sunni residents of certain neighbourhoods. *“We can drive past the site (Ibrahim Al-Zakzaky’s destroyed compound) but it is not possible to film here. We cannot stop, it is dangerous. We could be killed,”* an IMN supporter and survivor of the clashes told Amnesty International during a visit to the Gyallessu neighbourhood.

pilgrimage to Karbala, many walking for days to reach the city. In Nigeria IMN supporters and Shi'ites from neighbouring countries walk for days from other cities in the north of the country to Zaria.

⁴³ CNN, '21 die in suicide blast at Shi'ite ceremony, Nigeria military attack, cleric says', 3 November 2014, available at <http://edition.cnn.com/2014/11/03/world/africa/nigeria-attacks/>

⁴⁴ Naij, 'Beware Of Shia Muslims, Naij.com Author Tells Buhari', 2015, available at www.naij.com/438590-naij-com-author-about-the-rise-of-shia-islam-in-nigeria.html

International Crisis Group (ICG), 'New Risks on Nigeria's Shi'ite Fault Line', 16 December 2015, available at <http://blog.crisisgroup.org/africa/nigeria/2015/12/16/new-risks-on-nigerias-shiite-fault-line/>

All Africa, 'Nigeria: Country's Next Insurrection?', 17 December 2015, available at <http://allafrica.com/stories/201512170231.html>

⁴⁵ See for example: Al-Mizan newspaper, www.almizan.info/; The Shuhada Foundation, www.shuhada-foundation.blogspot.it/

⁴⁶ Conflicts in a number of countries including Iraq, Syria and Yemen have dramatically exacerbated sectarian tensions between Sunni and Shi'a Muslim communities in those and other countries, with Saudi Arabia and Iran often supporting or being perceived as supporting Sunni and Shi'a communities, respectively, in such confrontations. In Nigeria, the IMN is widely regarded as being backed by and loyal to Iran, while IMN supporters allege that Sunni authorities are backed by Saudi Arabia. See for example: MintPressNews, 'Saudi Arabia Takes Proxy War With Iran To Nigeria As Shias Are Brutalized' 12 December 2015, available at www.mintpressnews.com/saudi-arabia-takes-proxy-war-with-iran-to-nigeria-as-shias-are-brutalized/212629/; Premium Times, 'Why Nigeria Should Be Wary of Saudi Arabia and Iran' 11 January 2016, available at <http://blogs.premiumtimesng.com/2016/01/11/global-islam-why-nigeria-should-be-wary-of-saudi-arabia-and-iran-by-adeolu-ademoyo/>

⁴⁷ Interview, Zaria, 13 February 2016

However, while sectarian antagonism and biased perceptions clearly exist and can be easily found among members of both communities, such attitudes do not necessarily prevail. Some members of the Sunni community who openly expressed their dislike for the IMN told Amnesty International that they opposed the treatment meted out to them by the army. *“I don’t like what these Shi’ite stand for but the army used excessive force against them and killed many of them with no reason and this is not right”*, a resident of Zaria told Amnesty International.

Some survivors of the attack on the Ibrahim Al-Zakzaky compound told Amnesty International that they were helped by some Sunni residents of the neighbourhood. A young man said:

“I was hiding in a neighbouring house and the owner found me and told me that I should leave because the army was going to search the houses and I would be in trouble if they found me, and he showed me how to get out through the back alleys. I was very grateful because I did not know the area and if he had not helped me I may have been killed”.

4. TIMELINE

- 12 December, afternoon** IMN supporters blocked a section of the Sokoto road in front the IMN headquarters (Hussainiya) and refused to allow the convoy of the Chief of Army Staff to pass. Soldiers opened fire with live ammunition, killing at least seven protesters and injuring several others. A soldier was reportedly killed.
- 12 December, evening** Soldiers surrounded the Hussainiya and were deployed to other locations where IMN protesters were gathered, notably the compound of IMN leader Ibrahim Al-Zakzaky. Confrontations ensued and soldiers shot intermittently at the Hussainiya and Ibrahim Al-Zakzaky's compound throughout the night.
- 13 December** Soldiers broke into the Hussainiya and Ibrahim Al-Zakzaky's compound, setting some buildings on fire and killing and wounding hundreds of IMN supporters.
- 14 December** The Nigerian Army announced the arrest of Ibrahim Al-Zakzaky's and his wife, both seriously injured during the arrest, and petitions the National Human Rights Commission (NHRC) to investigate what it alleges was an attempted assassination of the Chief of Army Staff by IMN members on 12 December.
- 14 December, night** Hundreds of bodies were secretly buried in a mass grave in the Mando area of Zaria
- 15 December** The NHRC announced it would set up a panel to investigate the killings.
- 16 December** The Senate set up an ad hoc committee to investigate the killings
- 17 December** The Governor of Kaduna state announced the establishment of a Judicial Commission of Inquiry.
- 21 December** The NHRC inaugurated a Special Investigative panel to investigate the killings
- 16 January** The Kaduna state Judicial Commission of Inquiry was established
- 29 January** The Kaduna state Judicial Commission of Inquiry was inaugurated
- 24 March** The Judicial Commission of Inquiry announced that two of its lawyers had for the first time met with IMN leader Ibrahim Al-Zakzaky
- 1 April** The IMN leader, Ibrahim Al-Zakzaky and his wife Zeinat al-Zakzaky were allowed access to their lawyer for the first time
- 5 April** The General Officer Commanding (GOC) the 1st Mechanised Division of the Nigerian Army told the Judicial Commission of Inquiry that he deployed troops to search and retrieve "all sort of dangerous weapons". The military claimed that one soldier was shot and killed and that one officer was injured.
- 11 April** A Kaduna state official told the Judicial Commission of Inquiry that 347 bodies of men, women and children killed in the Zaria incidents were buried in a mass grave in an unspecified location in the Mando area, near Kaduna city, on 14 December. This was the

first admission by any Nigerian authorities of the large-scale killings.

5. EVENTS AT/AROUND THE HUSSAINIYA, SOKOTO ROAD

Witnesses told Amnesty International that on the morning of 12 December 2015, IMN supporters mounted a makeshift roadblock on the main road (Sokoto Road) which runs past the IMN headquarters (the Hussainiya) in the PZ area of Zaria. The roadblock did not close off the road completely as vehicles were observed driving through unhindered. The practice was not unusual. According to residents of the city, IMN “guards” (*hurras*)⁴⁸ were in the habit of temporarily blocking vehicular traffic to secure the movement of the IMN leader or the sites of IMN events, especially in the Gyallesu neighbourhood, where the IMN leader lived, but at times also elsewhere in the city. Though illegal under Nigerian law, such practice had been tolerated for some time and had seemingly come to be considered as acceptable by IMN supporters, who appear to have underestimated the potential consequences of refusing passage to the Chief of Army Staff, because of such precedents.

In a television interview after the incident, IMN spokesman Ibrahim Musa cited as an example a previous occasion when IMN supporters denied passage to an official without it resulting in any incident, and insisted that when denied passage by IMN members the Chief of Army Staff should have used another road because the large presence of soldiers at the hussainiya made the IMN congregation there feel unsafe due to attacks on IMN processions the previous year in which scores of IMN supporters were killed.⁴⁹ In the same interview he also dismissed the fact that non-fire weapons such as machetes, knives and catapults in the hands of some of the protesters could have legitimately been considered a security threat by the military.

The Chief of Army Staff's visit to Zaria had been planned in advance, as he was there to attend a military graduation parade at the army barracks in the city. Likewise, the IMN event to be held at the Hussainiya on the same day had also been planned in advance, as evident in the presence of many IMN members who had arrived from other regions. Most IMN supporters interviewed by Amnesty International said that they had gone to the Hussainiya to attend the Mawlut commemoration and some said they had been there from the morning to attend religious classes usually held on a Saturday morning. However both IMN supporters and members of the army apparently regarded each other's mere presence near the Hussainiya as evidence of an intention to launch an attack - the army alleging that IMN members were laying in waiting to ambush the Chief of Army Staff's convoy and assassinate him, and the IMN alleging that the soldiers had been deployed there to attack and kill IMN members.

The first casualties amongst IMN protesters occurred after army officers tried to convince IMN protesters

⁴⁸ Hurras (plural of “haras”) is the Arabic word for guards and is commonly used to refer to IMN members who act as security guards for IMN leaders.

⁴⁹ Sunrise Daily TV show, part 1 and 2, 17 December 2015 <http://ynaija.com/weve-never-carried-arms-shiite-spokesperson-ibrahim-musa-speaks-on-army-attack-watch/>

to clear the road and protesters refused. Video footage of the initial stage of the incident given to Amnesty International by the Nigerian military and available online shows IMN members – some carrying batons, knives and machetes – standing on the road and blocking it. IMN protesters, mostly young men but also some women, are seen taunting - but not physically attacking – the army officers who walked into the crowd to ask protesters to clear the road and armed soldiers around them. Soldiers armed with assault rifles and other firearms are visible in significant numbers around the officers and the protesters.⁵⁰ The video then cuts to the time after the Chief of Army Staff's convoy has passed, briefly showing the road cleared of protesters, with some burning tyres on the empty road. The footage of the crucial moments, when, by the army's own admission, seven protesters were killed and some 10 wounded by the soldiers who moved in to clear the road,⁵¹ is missing from the video.

Amnesty International's initial assessment of the evidence indicates that lethal force was used despite there being no imminent threat to life from the crowd. It is unclear whether there was sufficient reason for the army to use force to disperse the crowd, particularly as doing so was likely to inflame rather than de-escalate the situation. In any case, according to available information, the soldiers present at the scene were not equipped with less lethal crowd-control means and it is not clear why the situation was not handled by the police, who should be better equipped to deal with law enforcement operations such as this one. Given that the roadblocks had been set up hours prior to the passage of the Chief of Staff, the military had sufficient time to develop a crowd control plan, which could have included involving the police, who are presumably better trained in crowd-control, in what was a law enforcement exercise but should have included efforts to minimize the use of force to protect legitimate interests. At the minimum the soldiers deployed to secure the site should have been equipped with non-lethal weapons.

The Police Commissioner of Kaduna State told Amnesty International that the Police had no involvement in the Zaria operation. He described it as a “purely military affair”. He said

“There was a call from the General Officer Commanding [1st Division of the army] to the Zaria (Police) Area Commander asking him to go talk to the people who blocked the road. The Area Commander went to talk to them. It was just after 4pm [on 12 December]. They [IMN supporters] had blocked the road in three places by the Hussainiya on Sokoto Road, one after the other, about 150m from each other. Other than that we [the Police] had no involvement. The Police did not return to Gyallesu area until Monday [14 December] and by then the demolition [of Ibrahim Al-Zakzaky's compound] had already been carried out, and to the Sokoto road until Tuesday [15 December] but our patrol only go on the main road so I have no information about the demolition of the Hussainiya”.⁵²

It is not clear whether the use of force was necessary. There is no evidence indicating that the crowd posed a threat to members of the public and there are alternative routes that the military could have taken to reach their destination. Once a decision was made to clear the road to allow the Army Chief of Staff's convoy to pass, the aggressive conduct of some of the protesters may have raised security concern with the military deployed to secure the stretch of the Sokoto Road around the Hussainiya. However, available evidence indicates that the use of lethal force by the military in this circumstance was excessive.

The situation escalated significantly hours after the Chief of Army Staff and his entourage had passed, by which time the protesters, who had been forcibly cleared from the road, had taken shelter inside the Hussainiya compound while others had hidden in the Railway quarter on the opposite side of the Sokoto road. Others had managed to leave the area, which was surrounded by the military.

IMN supporters who were at the Hussainiya from the afternoon of 12 December until the following morning, told Amnesty International that the military shot intermittently into the Hussainiya throughout the night. They said that the shooting intensified in the early morning, when soldiers broke into the building, shooting as they entered, killing two women and injuring several other men and women.

⁵⁰ www.youtube.com/watch?v=qGPwef-P_eE

⁵¹ The Nigerian army said seven protesters were killed and 10 injured in the initial phase of clashes in the early afternoon of 12 December 2015 outside the IMN headquarters “about seven of the members of the group were shot dead and the COAS directed that the 10 wounded be evacuated to the Depot NA Medical Centre for treatment...” Vanguard, 16 December 2015, available at www.vanguardngr.com/2015/12/armyshiite-clash-nhrc-sets-up-probe-panel/

⁵² Meeting with Police Commissioner of Kaduna State, Kaduna, 16 February 2016.

Zeinat, a 34-year-old IMN supporter who lives near the Hussainiya, told Amnesty International:

“I was in my husband’s shop near the hussainiya at about 12.30pm on Saturday and I saw military vehicles arriving and offloading boxes of ammunition, directly in front of the petrol station [which is on the opposite side of the Sokoto Road, opposite the Hussainiya]. I thought of last year [the attack on an IMN gathering the previous year]. Many of those who were around the Hussainiya went towards soldiers, told them can’t trust them because of last year. Some soldiers moved to the polo ground [adjacent to the Hussainiya] for 10 minutes and came with some officers. They used their vehicles to block both sides of the road and collected some bodies from the ground. I then heard some sirens and was told the Governor had come. It was about 6:30pm. Later in the evening soldiers called on those inside the hussainiya to come out. They said ‘peace on you people at Hussainiya, woman, man or child, surrender, we are not going to do anything, we just want to destroy Hussainiya’. The shooting started when it was dark. The soldiers had lights. There was an explosion at the gate of the Hussainiya which destroyed part of gate. Shooting continued all night and in the morning the soldiers came in at about 7am and I jumped into another compound beside the Hussainiya”.

Sani, a man who works near the Hussainiya told Amnesty International:

“I was at my place of work on Saturday morning when the Shi’ite blocked the road and refused passage to the army. There was a lot of shooting in the afternoon and the whole area between the PZ and GRA neighbourhoods was sealed by the army. Later in the afternoon it was quiet for a while and then shooting resumed in the evening and went on all night and it became more intense in the morning. Bullets were even flying into the courtyard here. There were some very loud bangs. I stayed in my office all night and I only left on Sunday [13 December] at about 9am to go home. By then the Hussainiya was on fire and the area surrounded by soldiers. The area remained sealed for days. In my company we did not go back to work for that whole week. When I returned to work the Hussainiya had been bulldozed. There was nothing left to see”.

Mariam, a 41-year-old woman told Amnesty International that some of the people who were near her inside the Hussainiya were injured in the shooting:

“I went to the Hussainiya with my 19-year-old son at about 2pm on Saturday for the Mawlut celebration. There was confusion but I thought it would clear and the ceremony could go on later. I got stuck there. There was no way of going out because there was shooting. I stayed inside the building, praying with other sisters [women]. Bullets were going over our heads. The shooting then lessened for a while and then intensified again. At night the shooting was very heavy and soldiers also used more powerful weapons, much louder; people said they were using grenades. Most people did not sleep at all, some fell asleep wherever they were. In the morning at about 7 soldiers came in. I had woken up Jamila to pray and she had gone to the toilet. She was shot in the chest in front of the toilet, near the kitchen. She later died. I was a few metres from her, in a corner of the kitchen with other women and some girls and one man. The man was shot in the thigh. He bled profusely and died. The soldiers ordered everyone to come out with hands raised. Some women who were carrying children were let go, others were taken. Outside the soldiers made us lie on the road. They took off my hijab and used it to tie my hands behind my back. We were put on the back of a lorry. Some of us could not climb onto the lorry and they picked us up and threw us onto the lorry. In the lorry there were four dead bodies and three injured. They told us to bend our head and took us to Sabon Gary army depot. We were 168 women and children. We were kept there until Sunday night and then they took us to the CID in Kaduna and there I found my son. Then I was taken to Operation Yaki. I was released on Friday [18 December].”

Nahida, a 50-year-old woman whose eight-year-old daughter was injured in the Hussainiya, told Amnesty International:

“My daughter, aged eight, had gone to Hussainiya in the morning because every Saturday she had lessons there from 9am to 2pm. I sent my son to collect her but he called me and said he could not approach because there were soldiers around the Hussainiya. He then called again and said at about 2.30pm and said there was shooting. I set off with my 17-year-old daughter and my other son and we managed to reach the Hussainiya through back roads. We did not attempt to leave as it was too dangerous. At night the shooting grew more intense. The soldiers were flashing bright lights and shooting with heavy weapons. In the morning when the soldiers stormed the building they shot blindly. Bullets were flying everywhere and injured and killed people. My eight-year-old daughter was hit [in her lower right flank, seemingly by shrapnel from a ricocheting bullet]. She said to a soldier

'why did you do this' and he slapped her hard on her face. Two women I know were killed there. Jamila, a woman in her 30s, was shot in the chest near the kitchen and Fatima, a young girl of about 18 or 20, was shot in the head near the toilet".

6. EVENTS AT/AROUND IBRAHIM AL-ZAKZAKY'S COMPOUND, GYALLESU NEIGHBOURHOOD

Most of those who were killed died in and around Ibrahim Al-Zakzaky's compound, which comprised several buildings, including Ibrahim Al-Zakzaky's residence, in the Gyallesu neighbourhood. At least 140 people are believed to have been killed there between the evening of 12 December and the morning of 14 December 2015.⁵³ It is impossible to know how many were shot or killed by other projectiles used by the military and how many died in the two buildings which were set on fire.

Hundreds of IMN supporters were gathered in and around the compound when a large contingent of soldiers surrounded the area on the evening of 12 December 2015 – several hours after the outbreak of the clashes in front of the Hussainiya. IMN supporters told Amnesty International that they went to Ibrahim Al-Zakzaky's compound to protect him from what they believed was the risk of an imminent attack from the military, others said that they went there because the IMN headquarters was surrounded by soldiers and no longer accessible, and other still said that they had been at Ibrahim Al-Zakzaky's house since earlier that day or the previous day in preparation for the ceremony which was to be held at the Hussainiya.

Most IMN supporters interviewed by Amnesty international said they feared Ibrahim Al-Zakzaky was at risk of being harmed or killed. Many cited the killing by the army of three of Ibrahim Al-Zakzaky's sons in a clashes the previous year, as a reason for their fears.⁵⁴ Regardless of whether their assumption was well founded, their fears increased as the military deployed a large number of soldiers near Ibrahim Al-Zakzaky's compound – drastically escalating an already tense situation

The General Officer Commanding the 1st Mechanised Division of the Nigerian Army (in Kaduna), Major General Adeniyi Oyebade, told the Judicial Commission of Inquiry on 5 April 2016 that he arrived in Zaria after the first clashes at the Hussainiya has already taken place and that he deployed troops to the Gyallesu neighbourhood and other locations around Zaria where hundreds of IMN supporters were gathering. He stated that the aim of the operation was to search and retrieve “all sort of dangerous

⁵³ The IMN lists 144 people killed in Gyallesu. In addition, some of the survivors and relatives of victims whose name appear on the IMN list of 482 people who are missing and feared dead told Amnesty International that their relatives were killed.

⁵⁴ Three of Ibrahim Al-Zakzaky's sons and several other IMN supporters were killed by the military in July 2014 when an IMN “Al-Quda (Jerusalem) day” procession was broken up by the military in Zaria. See: Sheikh El-Zakzaky Shocked By Clash Between Shiites And Nigerian Troops In Zaria, Naij.com, 26 July 2014: <https://www.naij.com/70318.html>

weapons” in the possession of IMN supporters, “including local pistols”.⁵⁵

Residents of the Gyallesu neighbourhood told Amnesty International that at around 10pm (on 12 December) soldiers with heavy armoured military vehicles took position at the top of a road leading to Ibrahim Al-Zakzaky’s compound. They said that hundreds of IMN supporters had gathered around Ibrahim Al-Zakzaky’s compound and had blocked the road leading to the compound and were taunting the soldiers who promptly opened fire and continued to shoot intermittently throughout the night and the following day in the direction of Ibrahim Al-Zakzaky’s compound. Some residents said that some IMN protesters threw stones and launched metal ball bearings with hand held catapults in the directions of the soldiers and one resident said protesters used petrol bombs (home-made Molotov cocktails, in small bottles), but none said they had seen any firearms in the hands of the protesters. Several residents said they feared being hurt by indiscriminate army fire and one said that a teen-age almajiri boy who was sleeping in a shop was shot dead by soldiers who were pursuing an IMN supporter.⁵⁶

Some IMN supporters who were at Ibrahim Al-Zakzaky’s compound told Amnesty International that they did throw stones, but only when the soldiers were approaching the compound, on 13 December, by which time they had already killed and injured many protesters.

“The soldiers were firing all night [night of 12-13 December] from the top of the road and their bullets reached us easily but we could not throw stones or anything at them because they were 400m away”,

a protester told Amnesty International.

The military has provided no evidence that the protesters posed a threat to the lives of the residents or that live ammunitions were used against the protesters as a last resort to protect the lives of the soldiers. Rather, the prolonged and indiscriminate heavy shooting described to Amnesty International by protesters and residents alike raises concern that the army was deliberately killing protestors.⁵⁷ Though the army destroyed the compound after the incident, thereby removing crucial evidence of the excessive force they used, a significant quantity of bullet impact marks remain on several buildings near the compound and on the road leading from the compound to the location where the soldiers were positioned.

Rawda, a 39-year-old woman who was shot in the leg near the compound told Amnesty International:

“I was inside trying to read but could not concentrate because of the shooting and so I went out into the street; it was about 3am [on 13 December]. I was standing a few metres from Ibrahim, a man in his 40s from Kaduna who sells religious books. He was shot in the neck and died a few minutes later. The shooting got more intense and at about 5am and I saw my friend Wasila getting shot. She was just standing outside shouting ‘Allahu Akbar, we came here for the Mawlud and this is what we get’. She was two metres from me. She was hit in the abdomen and in right knee. We took her inside in the makeshift medical room but she died three hours later. She was a mother of five children. Then it was my turn to get shot. I was lucky I was only hit in the foot.”

A 10-year-old boy who was shot in the leg told Amnesty International:

“I went to Sheikh’s house on Saturday afternoon with my older brothers. I slept there and on Sunday morning we went out to try to go shelter in a nearby house but we got shot. My brother Ali [aged 18, in his last year of high school] was shot 3 times, in the head, in the shoulder and the pelvis. He died. I think he died because he was shot in the head, because me and my brother Mahadi (aged 15, in his second year of high school, who was shot in his hand) were not shot in the head and we did not die.”

⁵⁵ Oral statement to the Judicial Commission of Inquiry, Kaduna, 5 April 2016. Further statements reported in Nigeria: Why It Took Three Days, Many Lives to Arrest Zakzaky – Army; AllAfrica.com, 7 April 2016 <http://allafrica.com/stories/201604070696.html>

⁵⁶ Almajiri children/boys are from usually poor families who sent them to live in unregulated Islamic schools, where they are supposed to receive a religious education but in reality are often sent to beg by the teachers. See for example: Mixing the modern and the traditional; The Economist, 26 July 2014: <http://www.economist.com/news/middle-east-and-africa/21608809-trying-teach-children-not-be-extremists-mixing-modern-and>

⁵⁷ No attacks were reported on the residents. Even residents who complained to Amnesty International about the behaviour of IMN supporters in general (prior to this incident) did not report that they carried out attacks against them or their neighbours. One resident said that some IMN protesters had called on residents to come out to support them or they would burn down the neighbourhood, but that such threat had not been acted out.

Among those who were killed at the beginning of the confrontation in Gyalesu were young women and girls who went close to the soldiers' position to taunt the soldiers. Zainab, a 16-year-old school girl, told Amnesty International:

"I went to my friend's house in Gyalesu. At night [13 December] we started hearing gunshot. I was outside, near the entrance of Gyalesu [near the soldiers' position] with my friend and her sister. We were in our school uniforms. My friend Nusaiba Abdullahi was shot in her forehead. We took her to a house where they treated the injured but, before reaching the house she already died. Stained with blood. She was 17 years old. I went back to my friend's house to change because my uniform was full of blood. Then I went back to the same place (near the soldiers' position). I was standing near Muhra Zuru, 15 or 16 years old. She was shot in leg. So we went back, towards Sheikh's house. There a man who was standing in front of me was shot in the head, his brain scattered. And then another man nearby was shot in the abdomen and all intestines were outside. His name was Habib Musa."

According to the testimonies received by Amnesty International, the soldiers approached the compound on the morning of 13 December and those who were killed during that day were mostly shot at from a relatively short distance and in broad daylight. Among them were several groups of siblings and relatives. Some had reportedly received non-life threatening injuries and are believed to have died when the makeshift medical facility in the compound was attacked and burned down.

Two 19-year-old twin brothers and their step brother and sister aged 22 and 23, all students, were killed at Ibrahim Al-Zakzaky's house. The twin's mother, told Amnesty International that in the afternoon of 13 December one of her twins told her on the phone

"they are shooting those injured one by one".

"This was the last time we spoke to him, Hussein was shot in the leg on Sunday at about 7am. He said there was no way out but that he was being given medical care from some people inside the house. Then his brother asked me to send him phone credit and I did that. He said it was impossible to get out because there was too much shooting. Then the place where the injured were being treated was burned down".

The siblings' grandfather told Amnesty International:

"Hassan [one of the twins], called me on Sunday at about 2pm and asked me to forgive him. He knew he was going to be killed, like so many others. He said that his sister Fatima had been shot in the stomach and was dying".

Aliyu told Amnesty International that his three daughters (aged 18, 22 and 24), his 18-month-old granddaughter and son-in-law were killed on 13 December.

"My daughter Aishatu had called my wife late in the morning on Sunday and said that her husband had been shot dead while standing near her outside the compound. Then Nuseiba called me just after 12noon and said that she had been shot in the stomach and her sister Aishatu had been shot in the head. They were both still alive by then. Then my brother who was also at the compound told me that my other daughter Fatima was shot outside the compound. Aishatu's little girl was also killed. I think they all died in the fire in the makeshift medical clinic".

A 62-year old woman, Saleiha, told Amnesty International that her husband and her three children were all killed in Gyalesu, a 22-year-old son and two daughters aged 25 and 28.

"We were all at Al-ZakzakySheikh's [Ibrahim Al-Zakzaky's] house on Saturday [12 December] afternoon. We went there because we heard that the soldiers were going there, but there were no soldiers. At 8pm I went home and left them there. I kept in touch with them by phone. Last time I spoke to my husband was Sunday morning at about 7am. He said they are killing everybody, forgive me. I told him, you also forgive me.⁵⁸ After that I had no more news from him. I kept in touch with my daughter Fatima. The girls were in a different part of the house than the men, so they were not near their father. I spoke to her many time, she was updating me. On Sunday morning she said it is very bad, the soldiers are killing everybody. At 1pm she said that her sister Khadija had been shot. I asked her, is she dead? She said no. Then after about one hour her phone was off and I could not reach her any

⁵⁸ It is customary for people to seek forgiveness from their loved ones before dying.

more. I could not reach Ahmad at all. I never saw them again, any of them. People said they were all killed. All four of them”.

The sister of a student and media activist who was killed at the compound told Amnesty International about her last phone conversation with her sister on 13 December early afternoon:

“I was in contact with my sister by phone until Sunday early afternoon. At that point she said, the soldiers have killed everybody outside [the house] and now are coming into the house. She asked me to forgive her and also said the same to our father. She never came back. If she was alive even if she was detained somewhere, in the two months that have passed she would have found a way to send us a message to tell us that she is alive”.

Testimonies from residents of the neighbourhood are consistent with those of the protesters, that late morning on 13 December soldiers started to empty the neighbourhood of residents. A resident told Amnesty International:

“Many of the Shi’ite were trying to run away and some run into neighbours’ houses to hide but people rejected them for fear of getting into trouble with the army. Some people helped them out of humanity. The soldiers called on the residents, said if you are not Shi’ite come out and you will be ok. So the residents came out and were checked by the soldiers and then were let go. We had to leave the neighbourhood. So I don’t know what happened after that”.

All the survivors interviewed by Amnesty International who were in the compound on the afternoon of 13 December have stated that Ibrahim Al-Zakzaky’s residence and the guards’ house, which was being used as a makeshift medical clinic for those injured in the clashes, were set on fire in the afternoon of 13 December. The total demolition of the compound by the army immediately after the incident has made it impossible to establish whether the fires were deliberate or accidental. However, according to the witnesses interviewed the fires at the two properties started separately, hence it appears less likely that the two fires were accidental. Amnesty International also visited the site of another building belonging to the IMN, known as the “Film Village”, in another part of the Gyallesu neighbourhood, which neighbours told Amnesty International had been burned down by the army prior to being demolished during the week of 14 December 2015. Burn marks were visible on the parts of the surrounding walls which remained standing. Further, IMN supporters who were barricaded in the Hussainiya told Amnesty International that part of the building was set on fire in the early morning of 13 December 2015 as the soldiers broke into the building. A witness not associated with the protesters who was present near the Hussainiya on the morning of 13 December, told Amnesty International that he saw the Hussainiya on fire. It was not clear whether the fire was deliberately started or was a result of incendiary munitions used by soldiers.

According to several consistent testimonies, a number of IMN supporters who were too seriously wounded to be able to escape died in the fire in the makeshift medical clinic, while others were shot dead as they tried to escape.

Aliyu, a 22-year-old student, told Amnesty International that he was shot in the chest on the morning of 13 December outside the compound and was taken to the makeshift clinic in the compound:

“There were lots of injured people in several rooms. Some looked as if they were already dead. There were dead bodies in a room and also in the courtyard. Around 12-1pm soldiers outside called on people to come out, but people were too scared to go out. We knew they would kill us. Soldiers threw grenades inside the compound and those who could were escaping from the back. Some brothers were helping some injured to also escape or to carry some but it was difficult to climb over the wall not many could leave. There was lots of smoke. I saw one soldier on the wall of the courtyard shooting inside. He did not come into the courtyard and I lay on the ground and pretended to be dead. After that soldier left me and another injured guy managed to get over the eastern wall and managed to get into the house of a local resident. There was only an old man who was sick and he did not chase us away. We stayed there for two days and then the soldiers came into that house with the residents who said that they don’t know us so the soldiers took us away. A soldier beat me and dislocated my shoulder and threatened to shoot me but an officer told him not that he was not to shoot anyone. They took me to the hospital with another five injured who they had picked up in the area”.

Fatima, whose husband and six sons were killed in Gyallesu, told Amnesty International that several of her sons had received nonlife-threatening gunshot wounds and that she believed that they had been

subsequently deliberately killed while incapacitated:

“Abbas was shot in both legs on Saturday evening and on Sunday Abdurazak and Ahmad were both shot and were taken to a nearby house [in the compound] for medical treatment. Mohammed was shot and killed in front of his brother Hussein, and there is no news of Ibrahim. Some people say they saw him being shot and falling down. None of them have come back and have not been found in any prison”.

7. ILL-TREATMENT OF THOSE ARRESTED

Many of the men and some of the women interviewed by Amnesty International, who had been arrested and released, said that they and others detained with them had been subjected to varying degrees of ill-treatment when they were arrested, or while they were being transported to the military barracks. They described being slapped, punched or struck with rifle butts. Some of those who had been previously injured during the clashes said they had endured a similar treatment despite their injuries and that they were not allowed access to medical treatment or even food for several days. Others, a minority, said that they had not been ill-treated and had been promptly taken to hospital.

Several women and girls told Amnesty International that when they arrested them, the soldiers forcibly removed their headscarves, a particularly distressing treatment for religiously conservative women, and beat them and insulted them. *“They said vulgar things to us and insulted us in a manner which I could not repeat”*, a 45-year old mother of five told Amnesty International. *“I did not want to step on the dead bodies on the truck but the soldiers thumped me on my back and forced me to sit on the bodies”*, a 19-year-old student told the organization.

A 22-year-old student who was arrested after having been shot in the chest told Amnesty International:

“A soldier hit me with his rifle butts and I was lying on the ground a soldier pressed on the injury on my chest and told me to confess that we had weapons, while another soldier was filming. It was very painful but I refused to say this and after a while they stopped”.

Nasiru, a carpenter, was subjected to a particularly brutal assault. He was stabbed through the mouth with an arrow, seemingly one which was carried by the protesters,⁵⁹ which was pushed down his throat until it came out through the back of his neck. He told Amnesty International:

“I was outside the Hussainiya on Saturday afternoon when the soldiers started to shoot so I went to ground and as I was crawling a soldier grabbed me by the scruff of the neck and stabbed me with a knife below my left eye. It was a deep cut. I must have passed out briefly and he dragged me to the one of their trucks nearby. On the truck there were several bodies or injured people, I don’t know as nobody was moving. One soldier said ‘this guy is still alive’, and they grabbed me and opened my mouth and stuck an arrow down my throat through the back of my neck. I fainted. The following morning I was taken to the hospital. I don’t know how I got there but I was told that I spent the night in the morgue with the dead bodies but that in the morning someone noticed that my leg was twitching. The arrow was only removed nine days later because the doctors did not know how to go about it. During that time I was fed with tubes through the nose”.

Medical personnel confirmed to Amnesty International the pattern of injuries described by Nasiru and the organization also examined photographs of the injuries. As soldiers were apparently intent on killing

⁵⁹ Amnesty International was shown a similar arrow by residents of Gabari, a village near Zaria, where on 11 December 2015 IMN supporters had clashed with local residents, who said some of the IMN protesters had arrows, machetes, and catapults.

Nasiru, and tried to do so by inflicting extreme pain, this may constitute an attempted extrajudicial execution. This particularly shocking case is, however, not representative of the treatment described by other detainees

Amnesty International has not had access to those who remained detained but has received information from medical sources that some of the detainees were not allowed access to the necessary medical care for several weeks after their arrest. At least three detainees are reported to have died in custody, allegedly because they did not receive the necessary medical treatment for injuries sustained during the clashes.⁶⁰

⁶⁰ The IMN has named three detainees who died of their injuries in custody in Kaduna Prison. In early April the authorities returned the bodies of one of the three and of a fourth man who also died in custody to their families for burial. These are the only two bodies of the victims of the Zaria massacre returned to their families for burial.

8. SECRET DISPOSAL OF THE BODIES

Amnesty International received numerous allegations that those killed during the incidents in Zaria were secretly buried in mass graves in the days after the incidents. Families of those confirmed killed and of those who have been missing since the incidents and presumed to also have been killed have endured untold anguish, not knowing if their loved ones have been buried and if so where.

Saleiha, who told Amnesty International that her husband, son and two daughters were killed at the Gyallesu compound said:

“I know that my children and my husband were killed but I don’t know what happened to their bodies. I just want them to have a dignified burial according to our religion and I want to be able to pray on their grave. Nobody has the right to deny a mother this basic right”.

A witness told Amnesty International that he saw a large numbers of bodies outside the hospital’s mortuary on the evening of 14 December 2015:

“It was dark and from far I could only see a big mound but when I got closer I saw it was a huge pile of corpses on top of each other. I have never seen so many dead bodies. I got very scared and run away. It was a terrible sight and I can’t get it out of my mind”.

Another witness told the organization what he saw at the site of the suspected mass grave in the Mando area on the night of 14 or 15 December 2015.⁶¹

“There were five or six large trucks and several smaller military vehicles and they spent hours digging and unloading the trucks’ cargo into the hole they dug and then covered it again with the earth they had dug out. They were there from about 1 or 2 am until about 5 am. I don’t know what they buried. It looked like bodies, but I could not get near. It must be something dangerous to do this at night”.

Amnesty International has identified the location of the above possible mass grave in the Mando area near the city of Kaduna, where it found a large area of soil churned up by diggers, with dried-up large vehicle tracks still visible at the time of the visit.⁶² Satellite images of the site obtained by the organization reveal an area of disturbed land of approximately 1000 m². According to the images the disturbance to the site occurred between 2 November and 24 December 2015.

⁶¹ The witness could not remember the exact date.

⁶² Site visit, February 2016

9. MEASURES TAKEN BY AUTHORITIES TO INVESTIGATE THE INCIDENTS

A Judicial Commission of Inquiry was also established by the Kaduna State Governor in January 2016 to shed light on the incident. The terms of reference for the inquiry provide, *inter alia*, that it should determine the causes of the incident, to ascertain the number of persons killed, injured or missing, to identify all property damaged during the incident, to determine whether the measure taken were necessary, appropriate and sufficient in the circumstances. The Commission is also mandated with making recommendations for prosecution, further investigation or the convening of a separate inquiry as well as on what policies might be adopted/actions might be taken to prevent future incidents. Amnesty International is concerned, however, about other aspects of the terms of reference, which provide, for example, that the inquiry should “determine the evolution of the Islamic Movement in Nigeria, including its organization, structure and assets... and how these contributed to its engagement with... the security agencies”, which would seem to be far broader than needed in order for the commission to make appropriate findings in relation to the incident, and raise concerns about the impartiality of the investigation.

The Commission initially delayed the beginning of its hearings pending the IMN leader, who together with his wife was shot and severely injured by the military before being arrested, being granted access to his lawyers.⁶³ The Commission began the public hearings in early April 2016, after the IMN leader and his wife had finally been granted access to their lawyers. However, the IMN legal team withdrew from the Commission’s proceedings in protest at the continued detention of the IMN leader without charge.⁶⁴ Hearings before the Commission are ongoing and it is expected to conclude the investigation by 4 May 2016.

In addition, the National Human Rights Commission, the Nigerian Bar Association, the Senate, the House of Representatives, the Council of Ulama, and the Nigerian military have all reportedly set up

⁶³ On 24 March the Judicial Commission of Inquiry announced that two of its lawyers had for the first time met with IMN leader Ibrahim Al-Zakzaky and that the work of the Commission could therefore proceed, dropping its previous requests for Ibrahim Al-Zakzaky to be granted access to his lawyers. See: AllAfrica, ‘Nigeria: Army/ Shi’ite Clash - Army Demands Speedy Proceedings’, 24 March 2016, available at <http://allafrica.com/stories/201603240369.html>; Nigerian Tribune, ‘El-Zakzaky alive, healthy, counsel tells commission’, 23 March 2016, available at <http://tribuneonline.ng.com/el-zakzaky-alive-healthy-counsel-tells-commission>. The IMN leader, Ibrahim Al-Zakzaky and his wife Zeinat Al-Zakzaky were allowed access to their lawyer for the first time on 1 April 2015, three-and-a-half months after their arrest.

⁶⁴ Newdiaryonline, ‘Zaria Clash: Lawyers Representing Shiites Withdraw From Commission Of Inquiry’, 22 March 2016, available at <http://newdiaryonline.com/zaria-clash-lawyers-representing-shiites-withdraw-from-commission-of-inquiry/>

investigations into the Zaria incidents. It is not clear when these investigations will be completed and/or their findings published.

10. NIGERIA'S OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

Nigeria has ratified several international and regional human rights instruments that contain human rights standards relevant to violations documented in this briefing. These include the International Covenant on Civil and Political Rights (ICCPR); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and its Optional Protocol, the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) and the African Charter on Human and Peoples' Rights (ACHPR).

Article 6(1) of the ICCPR states: "Every human being has the inherent right to life. No one shall be arbitrarily deprived of his life." This right is a peremptory norm of international law and can never be suspended or otherwise derogated from, even "in time of public emergency which threatens the life of the nation" (Article 4).⁶⁵ Every person whose rights or freedoms are violated, has the right to a remedy (Article 2.3.a).⁶⁶

Unlawful deliberate killings carried out by order of government officials or with their complicity or acquiescence amount to extrajudicial executions; they are prohibited at all times and constitute crimes under international law.⁶⁷

The right to life is also enshrined in the ACHPR (Article 4), which also prohibits torture and other ill-treatment (Article 5) and guarantees the right to liberty and security of person (Article 6).⁶⁸

The Convention against Torture explicitly requires states to prevent acts of torture or other ill-treatment by, or at the instigation of state agents, or with their consent or acquiescence; to ensure that there is a prompt and impartial investigation into such acts; and specifically, to ensure that acts of torture or complicity or participation in torture are punishable by criminal penalties which take into account their

⁶⁵ See Article 4(2) of the ICCPR and, inter alia, Human Rights Committee, General Comment No. 29 on States of Emergency, CCPR/C/21/Rev.1/Add.11, paras 7 and 11; see also Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para. 11.

⁶⁶ See www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

⁶⁷ See UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 1. See also Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13, para. 18.

⁶⁸ See www.achpr.org/instruments/achpr/

grave nature.⁶⁹

In addition to the broad provisions of general human rights treaties, the UN and other intergovernmental organizations have developed comprehensive standards including on the use of force, torture and extrajudicial executions. Such standards include the UN Principles on the Effective Prevention and Investigation of Extra-legal, Summary and Arbitrary Executions which prohibit all extra-legal, arbitrary and summary executions and require the criminalization of such executions. They also require the prevention and investigation of extrajudicial executions and the prosecution of perpetrators.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has reiterated the importance of investigations: “It is the obligation of Governments to carry out exhaustive and impartial investigations into allegations of violations of the right to life, to identify, bring to justice and punish the perpetrators, to grant compensation to the victims or their families and to take effective measures to avoid future recurrence of such violations.”⁷⁰

The ICCPR (Article 9(1)) and the ACHPR (Article 6) also prohibit arbitrary arrest and detention.

⁶⁹ See www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx

⁷⁰ UN General Assembly, 7 October 1996: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms, available at www.un.org/documents/ga/docs/51/plenary/a51-457.htm

11. INTERNATIONAL LEGAL FRAMEWORK APPLICABLE TO THE USE OF FORCE

Policing demonstrations or protest gatherings can be a difficult and complex task, especially when law enforcement officials face large and unruly crowds, some of whose members may use or threaten to use violence. In such circumstances it may be necessary for law enforcement officials to resort to the use of force in order to carry out the state's responsibility to maintain public order and safety and protect people and property from attacks.

In carrying out their duties law enforcement officials must comply with the obligations under international law. In particular, they must at all times respect and protect the right to life and physical integrity and security of all – including protesters, onlookers and passers-by.

This is set out in Article 3 of the UN Code of Conduct for Law Enforcement Officials which states that “Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty”.⁷¹

The principles of legitimate purpose, strict necessity and proportionality encapsulated in this provision are elaborated in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,⁷² which also set out practical measures to be taken by governments and law enforcement agencies to ensure compliance with Article 3 of the Code of Conduct and with international human rights law and standards generally.

The most relevant is Principle 9, which stipulates that “Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life”.

The UN Special Rapporteur on extrajudicial arbitrary executions explained more in details the meaning

⁷¹ See Code of Conduct for Law Enforcement Officials, adopted by UN General Assembly resolution 34/169 of 17 December 1979, Art. 3, available at www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx

⁷² Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, available at www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx

of the Basic Principles concerning the intentional use of lethal force: "...The Basic Principles permit the intentional lethal use of force only 'in order to protect life'...The fundamental question is of proportionality between the objectively anticipatable likelihood that the use of force will result in death and the comparable anticipatable likelihood that failing to incapacitate the individual would result in the death of others. It must also be remembered that proportionality is a requirement additional to necessity. The principle of necessity will, thus, never justify the use of disproportionate force".⁷³

Principle 4 stipulates that law enforcement officials must as far as possible apply non-violent means before resorting to the use of force, and whenever the lawful use of force is unavoidable they must use it with restraint and in proportion to the seriousness of the law enforcement objective, and must ensure that assistance and medical aid are rendered at the earliest possible moment to anyone injured or affected.

Principle 13 underlines the right to participate in peaceful assemblies, in accordance with the principles in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and stipulate that in dispersing assemblies that are unlawful but non-violent, law enforcement officials must avoid the use of force or if that is not practicable must restrict it to the minimum necessary.⁷⁴

Accordingly, if demonstrators act in a violent way, law enforcement officials must react proportionately, using only the minimum force necessary to contain the situation and re-establish public order. In doing so they must differentiate between those who are acting violently and those who are not, and must not resort to the use of force against demonstrators generally. Any action should be directed towards those particular individuals who act in a violently manner or who otherwise pose a threat to the lives of others.

Crucially, the Basic Principles stipulate that any use of force that results in injury must be reported to superior officers; the incident should be effectively reviewed with independent administrative or prosecutorial authorities in a position to exercise jurisdiction, and those affected by it must have access to an independent process, including a judicial process.⁷⁵

Basic Principle 7 stipulates that arbitrary or abusive use of force by law enforcement officials must be punished as a criminal offence.

⁷³ UN Doc. A/61/311 (2006), paras 42 and 44, available at www.poa-iss.org/CASAUpload/ELibrary/A-61-311.pdf

⁷⁴ See also Human Rights Council resolution 22/10, which, in para. 7, called upon states to "avoid using force during peaceful protests and to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force". See www.universal-rights.org/human-rights/human-rights-resolutions-portal/

⁷⁵ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principles 6, 22 and 23.

See also Human Rights Council resolution 22/10, which, in para. 9, called upon states to "investigate any death or injury committed during protests, including from the discharge of firearms or the use of non-lethal weapons by law enforcement officials". Para. 15 of the resolution "urges States to ensure that victims of human rights violations and abuses have, through existing national mechanisms, access to a remedy and that they obtain redress, including in the context of peaceful protests".

12. NIGERIAN LAW

The Constitution of the Federal Republic of Nigeria (1999) recognizes the right to life

(Section 33) and personal liberty (Section 35), but allows for much wider grounds for the use of lethal force than is permissible under international law and standards. Section 33, which guarantees the right to life, also permits an overly broad exception for deprivations of life.

Under this section, when lethal force is used and is reasonably necessary “for the defence of any person from unlawful violence or for the defence of property” (33.2.a) or “for the purpose of suppressing a riot, insurrection or mutiny” (33.3.c), any consequent killing does not constitute deprivation of life.

Section 35 of the Nigerian Constitution guarantees the right to “personal liberty”; the right to remain silent; the right to [legal or other] representation; the right to be informed of the charge faced; and the right to be brought before a court of law within a reasonable time (subsection 4). However, subsection 7 removes this latter protection for individuals reasonably suspected of capital offences. This is inconsistent with international human rights law, as it allows individuals suspected of a capital offence to be held indefinitely. Moreover, Section 45 of the Nigerian Constitution allows derogation from the right to liberty “(a) in the interest of defence, public safety, public order, public morality or public health”, without however specifying what derogation is allowed. The African Charter on Human and Peoples’ Rights, to which Nigeria is a party and which has been codified in Nigerian law, does not allow derogations from the right to liberty and Nigeria has not formally derogated from its obligations under the ICCPR.

Under the Nigerian Constitution the Nigerian Police is tasked with “the maintenance and securing of public safety and public order”,⁷⁶ and according to the Police Act “the police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged...”.⁷⁷

However, the Nigerian Police played no role in the events in Zaria. The two-day operation, which resulted in the killing, injuring and detention of hundreds of IMN members and the destruction of several IMN properties, was carried out by the Nigerian military. It is not clear whether the police failed in its duty to respond to the incident or was prevented from doing so by the military.

⁷⁶ Constitution of the Federal Republic of Nigeria 1999, Chapter VI, Part III, B, 215(4)
<http://nigeriaworld.com/focus/constitution/chapter6.html>

⁷⁷ Part II, 4. [1979 No. 23.] <http://www.placng.org/new/laws/P19.pdf>

13. VIOLATIONS OF INTERNATIONAL LAW COMMITTED BY THE MILITARY IN ZARIA

VIOLATION OF THE RIGHT TO LIFE

All available evidence - including that provided by the Nigerian army - indicates that the use of lethal force was not strictly unavoidable to protect life, and as such was unlawful. It is not clear whether the use of force was necessary to achieve a legitimate law enforcement aim. The available evidence indicates that the army used lethal force with the aim of ensuring that the Army Chief of Staff could use a specific route to a passing out parade at which he was officiating. Despite early knowledge of the obstruction likely to be caused by the crowd of IMN supporters no effort was made to involve the police, to deploy less lethal crowd-control means or to take steps generally to minimize the potential for loss of life.

The use of lethal force by a large contingent of soldiers armed with assault rifles, machine guns and other firearms, as well as heavier weapons, was excessive considering the level of threat posed by a small percentage of protesters who carried weapons such as sticks, spears, stones, catapults, knives or machetes and who could not reasonably be considered as posing an imminent threat to the lives of the military or others. On the available evidence therefore the deaths of protestors were the consequence of excessive and, arguably, unnecessary use of force.

There is evidence that some of the killings perpetrated by the army were deliberate. Soldiers fired large quantities of live ammunitions, over a period of some 36 hours, into and around buildings where large numbers of unarmed men, women and children were sheltering – including dozens who had been wounded in the previous day/hours. The soldiers subsequently set fire to the home of the IMN leader, where some of his supporters were sheltering, and to a nearby house where the injured were being cared for and the bodies of some of those killed were being kept.

The extent and scope of the lethal force against buildings full of people who had no firearms and some of whom were injured and unable to move, and who therefore posed no threat to the lives of well-armed soldiers stationed a safe distance away, is also evidence that the killings were deliberate.

ARBITRARY DETENTION AND ILL-TREATMENT UNDERMINING THE RIGHT TO FAIR TRIAL

Allegations that dozens of detainees were ill-treated and that some were denied prompt access to the necessary medical care have not been adequately investigated to date.

The incommunicado detention of the IMN leader and his wife for four months without access to their family and legal counsel, and the failure to promptly bring before a judge scores of detainees has deprived them of their rights to have a court assess the legality of their detention or to prevent torture and other ill-treatment, and undermined their right to fair trial.

Such practices are contrary to Nigeria's Constitution and its international human rights obligations.

14. RECOMMENDATIONS

TO THE KADUNA STATE GOVERNMENT

Ensure that the Judicial Commission of Inquiry into the Zaria events established by the Kaduna State Government (under Section 2 of the Kaduna State Commission of Inquiry Law, 1991) conducts an independent, impartial and thorough investigation into the incident, with the involvement of all concerned parties, and that it issues a public report on its findings.

Ensure that the Commission has the necessary means to carry out its investigation unhindered and the necessary powers to summon and compel the relevant civil and military authorities to co-operate fully with the Commission - including by providing relevant records and documentation.⁷⁸

Ensure that the necessary mechanisms are in place to guarantee the safety and protection of witnesses who may testify before the Commission (or subsequently in any legal process).

Ensure that all evidence of crimes and human rights violations is preserved, including by issuing an order that all military and other official records must be preserved, in particular records relating to the collection and disposal of the bodies of those killed in the Zaria events.

Seek the assistance of international experts in conducting exhumations, autopsies and investigations. Bodies interred in mass graves should be exhumed with a view to conducting independent autopsies by independent and recognized Nigerian and international forensic pathologists to establish the causes and circumstances of death. The families of the deceased must be kept fully informed of any procedures and developments and must be allowed to be present, in person or via their legal representatives, at the exhumation and autopsies of their deceased relatives.

TO THE FEDERAL GOVERNMENT

Ensure that those suspected of being criminally responsible are held accountable through fair trials without recourse to the death penalty.

Ensure that families and dependants of victims of extrajudicial executions and other unlawful killings are entitled to obtain fair and adequate reparation from the state, including financial compensation.

Publicly condemn all extrajudicial executions and other unlawful killings, regardless of the circumstances and identity of the victims and commit to ensuring that anyone responsible for such crimes is held accountable

Ensure that allegations of ill-treatment of detainees at the time of arrest and while in custody are independently and impartially investigated and that anyone found to be responsible for such abuses is held accountable.

⁷⁸ The Commission was inaugurated on 29 January 2016 and was given six weeks to complete its work, but at the expiry of this period it has not yet been able to start the hearings because it was unable to obtain access to the detained IMN leaders/members until late March 2016.

“Ensure that all IMN members charged with offences in relation to the incident are tried promptly and fairly in accordance with international fair trial standards. Ensure that all individuals who have not been charged are immediately and unconditionally released from detention or charged with a recognizable offense and brought before a competent civilian judicial authority”

Ensure that such law enforcement situations are dealt with in future by the police, whose officers should be adequately trained and equipped to respond to crowd-control situations without resorting to the use of lethal force (unless strictly necessary to protect life). The use of the military for law-enforcement purposes should only be an exceptional means to respond to an emergency situation, when there is a need to support the civilian police. In such cases, the use of the military should only be temporary and the military should act under civilian command and control. Members of the military should not be allowed to act in a law enforcement capacity unless they are adequately trained and equipped to do so.

Review and amend the code of conduct, rules of engagement and standing orders of the military so as to put an end to extrajudicial execution and other unlawful killings and to the use of excessive force.

Take concrete measures to implement the recommendations of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions (published in his report of January 2006),⁷⁹ and accept his request to visit Nigeria (as recommended in Nigeria’s Universal Periodic Review of 2013 – 135.41) and implement the recommendations of the 2013 Universal Periodic Review, notably with regard to extrajudicial executions (135.68 to 72, 245.79).⁸⁰

TO THE NATIONAL HUMAN RIGHTS COMMISSION

Ensure that the panel set up to investigate the killings conducts an independent, impartial and thorough investigation into the incident, with the involvement of all concerned parties, and that it issues a public report on its findings, which should contain suitable recommendations, including that anyone found criminally responsible is brought to justice.

TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS

Issue a public statement expressing concern over repeated reports of serious allegations of violations committed by the Nigerian military, including during the December incidents in Zaria, and call upon the Government of Nigeria to ensure thorough, independent, impartial and transparent investigations into all allegations of serious violations of international human rights and humanitarian law committed by the Nigerian military.

Pursuant to its protection mandate, request a fact-finding visit to Nigeria to investigate the allegations of serious violations in Zaria as well as the pattern of extrajudicial executions, arbitrary arrests, detentions and ill-treatment committed by the Nigerian military in the northeast of Nigeria.

TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL

Call on the Nigerian government to ensure that the necessary steps are taken towards the implementation of its obligation to pursue truth, justice, reparation and guarantees of non-recurrence, including those committed by the Nigerian military in Zaria.

⁷⁹ Un Doc. E/CN.4/2006/53/Add.4, 7 January 2006, available at, <https://documents-ddsny.un.org/doc/UNDOC/GEN/G06/106/40/PDF/G0610640.pdf?OpenElement>

⁸⁰ Report of the Working Group on the Universal Periodic Review, 16 December 2013, available at <https://documents-ddsny.un.org/doc/UNDOC/GEN/G13/190/10/PDF/G1319010.pdf?OpenElement>

TO THE UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

Provide the necessary technical assistance and support to any independent investigations initiated by the Nigerian government, in particular assistance with the collection and preservation of evidence.

TO THE INTERNATIONAL COMMUNITY

Promote the recommendations in this report during bilateral and multilateral forums and dialogue with the Nigerian authorities.

Use all available channels to intercede with the Nigerian government and ensure that transfers of equipment, knowledge and training for military, security or police do not contribute to human rights violations, such as the extrajudicial executions and other unlawful killings committed in Zaria.

Encourage the Nigerian government to implement the recommendations of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions (published in his report of January 2006) and to agree to his request to visit Nigeria.

**AMNESTY INTERNATIONAL
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WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

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NIGERIA – ‘UNEARTHING THE TRUTH’

UNLAWFUL KILLINGS AND MASS COVER-UP IN ZARIA

On the afternoon of 12 December 2015, soldiers opened fire on protesters blocking a road in the Nigerian city of Zaria. Over the following two days, more than 350 protesters and supporters of the Islamic Movement of Nigeria were killed at two sites in Zaria.

For four months the Nigerian authorities attempted to cover up the killings. Then, on 11 April 2016, Kaduna State authorities admitted that they had secretly buried the bodies of 347 people in a mass grave, two days after the massacre.

Amnesty International has investigated the events of 12-14 December 2015 and visited the sites of the killings and an alleged mass grave. The findings of these investigations are presented in this report, along with recommendations to the Nigerian government and the international community.

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