NIGERIA: MORE THAN 1,500 KILLED IN ARMED CONFLICT IN NORTH-EASTERN NIGERIA IN EARLY 2014

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Cover photo: Group of young men killed in Potiskum, Yobe state, by the security forces following an attack by Boko Haram in a nearby village. © private

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INTRODUCTION

Since the start of 2014, more than 1,500 people have been killed in north-eastern Nigeria. People are living in a climate of fear and insecurity, vulnerable to attack from Islamist armed group Boko Haram on the one hand and facing human rights violations at the hands of the very state security forces which should be protecting them. In light of this context, the ongoing intensity of the confrontation and the organisation of the clashing actors, Amnesty International considers the situation to be a non-international armed conflict.

According to Amnesty International's research at least half of the deaths are civilians, killed in attacks by Boko Haram. More than 600 people, mainly former detainees, were killed by the security forces following the attack by Boko Haram on the military barracks in Maiduguri on 14 March. These killings amount to crimes against humanity and war crimes.

Amnesty International is extremely concerned that Nigerian security forces and the Islamist armed group Boko Haram are committing serious violations of International Humanitarian Law (IHL) and human rights abuses amounting to war crimes and crimes against humanity. There have been hundreds of unlawful killings, including scores of extrajudicial executions, and deliberate attacks on civilians. Thousands of detainees have been victims of torture and other cruel, inhuman or degrading treatment or punishment.

Suspected Boko Haram members have launched a campaign of violence on the residents of Adamawa, Borno and Yobe states. A state of emergency was declared by President Goodluck Jonathan in these three states in May 2013 and was extended in November 2013.

The extension of the state of emergency has not helped to reduce the violence in northern Nigeria. Hundreds of people are dead, thousands of families have been separated and hundreds of thousands of people have fled the affected states and are seeking refuge in neighbouring countries or have been internally displaced. National and international humanitarian organisations have faced serious difficulties in reaching out to people in some parts of the affected region. As a result, thousands do not have access to emergency medical care and food supplies. Women, the elderly and children have been mostly affected.

Since the violence started in 2009, thousands of fighters have also been killed in clashes between security forces and Boko Haram members across different locations in north-eastern Nigeria. Since 2012, thousands of people have died in military custody in Borno and Yobe states. Hundreds more have been victims of enforced disappearances and thousands have been subjected to acts of torture and other forms of cruel, inhuman and degrading treatment in military and police custody in north-eastern Nigeria.

Amnesty International is calling on regional and international human rights bodies to step up in ensuring that thorough, independent, impartial and transparent investigations are

conducted. Nigeria should seek international assistance and advice in the conduct of these investigations and any subsequent prosecutions.

TIMELINE OF THE CONFLICT

- 2003 - Boko Haram established in northern Nigeria under the leadership of Islamic cleric Mohammed Yusuf. Yusuf preached that the country's ruling class was marred by corruption and advocated for the creation of an Islamic state.
- July 2009 - Boko Haram members clashed with security forces in several northern states, resulting in at least 800 deaths. Mohammed Yusuf was arrested and killed in police custody.
- 2010 - Boko Haram regroups and starts its campaign of violent attacks against security forces, schools, churches and civilians.
- September 2010 - Boko Haram attack a prison in Bauchi State, freeing 150 of its members and several hundred other prisoners
- 12 June 2011 - The Nigerian government established a Joint Task Force (JTF) in Borno state, to "restore law and order" to north-eastern Nigeria. It is comprised of personnel from the Nigerian Armed Forces, the Nigeria Police Force (NPF), the Department of State Security (DSS), the Nigerian Immigration Service (NIS) and the Defence Intelligence Agencies (DIA).
- 16 June 2011 - Boko Haram bombs Nigeria's National Police Force Headquarters in Abuja.
- 26 August 2011 - Boko Haram bombs the UN offices in Abuja, killing 23 people.
- 26 April 2012 - Boko Haram bombs the offices of the Nigerian newspaper Thisday in Abuja and a building housing three newspapers, including Thisday, in Kaduna. At least seven people died.
- November 2012 - The Prosecutor of the International Criminal Court notes that serious human rights violations may have been committed by the JTF and that Boko Haram's attacks may constitute crimes against humanity.
- May 2013 - President Jonathan declares a state of emergency in Adamawa, Borno and Yobe states, which is rapidly approved by the National Assembly.
- May 2013 - A vigilante group, known as the "civilian joint task force", is formed with government support in Maiduguri. They are given powers to arrest suspected Boko Haram members and hand them over to the security forces.
- November 2013 - The National Assembly approves a 6- month extension to the state of emergency in Adamawa, Borno and Yobe states
- 2014 - Attacks by Boko Haram against civilians intensify, becoming an almost daily occurrence. The JTF responded by increasing its campaign to flush Boko Haram out of its camps in the east of Borno state.
- 16 January 2014 - President Jonathan replaces the Chief of Defence Staff and other senior military figures.
- 14 March 2014 - Boko Haram attacks the Giwa military barracks in Maiduguri, allegedly freeing over one thousand inmates. The military re-captured the barracks, then rounded-up and shot hundreds of escaped detainees.

Former detainees shortly after they were re-arrested by the “civilian JTF” and executed by the security forces in Jiddari Polo area in Maiduguri on 14 March 2014. © private

NON-INTERNATIONAL ARMED CONFLICT IN NORTH-EASTERN NIGERIA

The fighting in north-eastern Nigeria meets the required criteria for it to be considered as a non-international armed conflict.

In the first three months of 2014 alone, hundreds of people including children, old people and women have been killed in different locations across north-eastern Nigeria. Hundreds of soldiers, members of the "civilian Joint Task Force" ("civilian JTF") and suspected Boko Haram fighters have also been killed in attacks and clashes in the conflict.

This year alone, there have been at least 52 deadly attacks. Below is a highlight of some of the major attacks and unlawful killings by Boko Haram as well as counter attacks by the security forces between January and March 2014:

- In the last two weeks of March, the JTF has attacked Boko Haram camps in Borno State around Lake Chad, the Sambisa Forest and the Mandara Mountains. Reports in the Nigerian media indicate that hundreds of corpses have been seen transported away from those areas by military personnel. No precise figures have been received from the military. The camps attacked include Gombole, Mele, Kecheri, Dufrfada, Yuwe, Duguri, Polkime and Malafatori, among others.

- Members of the JTF killed 18 suspected Boko Haram members on 24 March 2014 as they prepared to attack Bama and Ngurosoye towns.

- On 20 March 2014, an improvised explosive devise detonated in a market in Ngurosoye village killing at least 16 people. Boko Haram is suspected of carrying out the attack. On the same day the military allegedly bombed Kayamla village, killing 10 residents.

- On 14 March 2014 Boko Haram attacked Giwa barracks in Maiduguri, allegedly freeing hundreds detainees. There were no reported deaths of soldiers in the attack. A couple of hours later, the military regained control of the barracks. More than 600 people, mainly former detainees, were killed in the attack and its aftermath.

- On 9 March, sources in Nigeria's military claimed to have killed over 210 Boko Haram members in raids on Boko Haram camps in the Sambisa forest, Borno State.

- Suspected Boko Haram members attacked Jakana Village in the Konduga Local Government Area of Borno State on 3 March. They killed between 40 and 48 civilians, and destroyed shops and the police station.

- On 2 March, Mafa village in Borno State was reportedly attacked by suspected Boko Haram gunmen. They killed 29 people and destroyed several houses. A bomb left by

the attackers was said to have detonated later, killing two police officers. Allegedly, the JTF of the Nigerian security forces did not respond for five hours after the attack.

- 39 people were reportedly killed in an attack on Mainok village, Borno State on 1 March by suspected Boko Haram members. Several houses were also burned down during the attack. Earlier in the week, the JTF ambushed Boko Haram members as they prepared to attack Mainok village, killing 40 insurgents.

- On 1 March, two bombs were detonated in Maiduguri, Borno State, killing 52 people. Boko Haram members were alleged to be responsible.

- On 26 February, suspected Boko Haram gunmen killed 37 people in attacks on Kirchinga, Michika and Shuwa villages in Adamawa State. During the attack on Shuwa village, assailants burned down a Christian college and school. Military sources claimed to have killed six suspected Boko Haram members during their counter-attack.

- On 25 February, between 43 and 59 people were shot dead by suspected Boko Haram members in an attack on a school in Buni Yadi, Yobe State. Many school children were among those killed in the attack. According to residents, the military did not respond during the attack, which lasted between four and five hours.

- Suspected Boko Haram gunmen attacked the palace of a traditional leader and a school in Bama, Borno State in the early hours of 19 February. Between 60 and 90 people died. The assailants allegedly used suicide bombers and improvised explosive devises. The military claimed that they killed “a lot of insurgents” during the confrontation.

- On 16 February, several villages in Adamawa State were attacked by Boko Haram members. 65 people died in the attacks.

- On 11 February, an attack by suspected Boko Haram members left more than 50 people dead in Konduga town, Borno state. The attackers also reportedly burnt many houses, shops and vehicles, and abducted an unconfirmed number of people.

- On 26 January, Boko Haram members attacked Kawuri village, Borno State, killing between 52 and 85 people, and destroying the village market.

- On the same day, in Adamawa State, gunmen suspected of being Boko Haram members attacked a church in Waga Chakawa Village. Between 31 and 47 people were reportedly killed in the attack, including two policemen.

- On 19 January, suspected Boko Haram gunmen attacked the village of Alau Ngawo Fatie, Borno State, killing 18 people and causing many other residents to flee.

- On 14 January, a car bomb exploded in Maiduguri, Borno State, killing as many as 43 people and injuring many others. Boko Haram are suspected to be responsible.

NON-INTERNATIONAL ARMED CONFLICT

The fighting in north-eastern Nigeria has reached the threshold of a non-international armed conflict. The International Committee of the Red Cross (ICRC) has defined a non-international armed conflict as: "protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State [party to the Geneva Conventions]. The armed confrontation has reached a minimum level of intensity and the parties involved in the conflict must show a minimum of organisation."

In 2013, the Office of the Prosecutor in International Criminal Court (ICC) also determined the fighting in north-eastern Nigeria to be a non-international armed conflict. The preliminary investigations by the ICC are still ongoing.

Nigeria became a state party to the Rome Statute on 27 September 2001. As such, the International Criminal Court has jurisdiction over crimes (as prescribed by the Rome Statute) committed on Nigerian territory or by Nigerian nationals from 1 July 2002 onwards.

In a situation of non-international armed conflict, Nigeria remains bound by its obligations under international human rights law. And all parties to the conflict, including non-state armed groups such as Boko Haram, are bound by the rules of international humanitarian law (IHL).

Potiskum, October 2013, people killed by the security forces in a military operation in Yobe state.

RECENT ATTACKS AND UNLAWFUL KILLINGS BY BOKO HARAM

Since the beginning of 2014, attacks by suspected Boko Haram members have intensified, resulting in the deaths of more than 700 people, mainly civilians not directly participating in hostilities. Boko Haram has embarked on a campaign of widespread violence and human rights abuses, resulting in a general atmosphere of intimidation and fear among the population in north-eastern Nigeria. They have claimed responsibility for the majority of attacks in the north-east. As far as Amnesty International is able to ascertain, no other group or individuals have claimed responsibility for the attacks. However, it is possible that other groups or individuals have also carried out some of these attacks.

On 3 March suspected Boko Haram members attacked Jakana Village in the Konduga Local Government Area of Borno State. They killed between 40 and 48 civilians, and destroyed shops and the police station. Two displaced residents from Jakana village seeking refuge in Maiduguri told Amnesty International that many of their neighbours and families had been killed and their houses and shops burnt by the gunmen. Alhaji Umar described how he and his three year old son witnessed the killing of his younger brother who was a member of the "civilian JTF" in the village. He said: "*We hid in a nearby bush at the back of my house when the gunmen entered the village. They started shouting 'Allahu Akbar! Allahu Akbar!' I took my three year old and we crept outside and hid between some trees. While we were there, the gunmen brought my brother out and cut his throat. They then shouted again 'Allahu Akbar!' My son nearly fainted with the shock of seeing his uncle being slit like that. He still has not recovered from the shock. I don't even know where my wife and other children are at the moment.*"

On 25 February, suspected Boko Haram members attacked a college in Yobe State, killing between 43 and 59 students and teachers. Several survivors and local residents told Amnesty International that the gunmen spent four hours in the school compound killing people and burning nearby houses and school buildings. They described how gunmen arrived around 9:00pm and started shooting indiscriminately, killing every male they found. Children who hid in a classroom were burned alive. Survivors and some eye witnesses told Amnesty International it took several hours before the army responded.

In an interview with Amnesty International, one of the staff at the school said: "When the gunmen entered the school compound, there was confusion. Everybody was running for safety. I and many students ran into the bush. Many of the children did not return after the attack. We don't know what has happened to them. When I returned, my quarters had already been burned. As we speak, I'm staying with a relative. I don't know what to do. I am fed up."

On Tuesday 11 February, suspected Boko Haram members killed more than 50 people and burnt scores of homes in the village of Konduga, also in Borno state. Two eyewitnesses in Konduga village told Amnesty International that between 30 to 40 girls were abducted and taken away by the gunmen during the attack on a government-run secondary school in the village. The Chief Nursing Officer of the General Hospital in Konduga was also reportedly

kidnapped by the gunmen.

Similar attacks have taken place in villages in Adamawa and Yobe states, leaving scores dead, injured and forcibly displaced.

NIGERIA'S SECURITY FORCES COMMIT HUMAN RIGHTS VIOLATIONS WITH IMPUNITY

Nigeria's security forces continue to commit serious human rights violations in their response to Boko Haram. Since 2009, thousands of people suspected of having links to Boko Haram have been extra-judicially executed or unlawfully killed by the Nigerian army and police. Hundreds more have been victims of enforced disappearances and since 2012, thousands of suspects died in military and police custody.

The JTF frequently conducts raids usually following attacks by Boko Haram in which ordinary people are arrested en masse and detained in military detention centres for lengthy periods, often without charge or trial and without access to their families and lawyers.

Amnesty International's research has also found that the security forces appear to have repeatedly used firearms against people when there is no imminent threat of death or serious injury and have intentionally used lethal force in circumstances other than when it was strictly necessary to protect life.

In 2014, as attacks by Boko Haram intensified, the military has responded by stepping up its operations against Boko Haram camps in Borno state. In the first three months of the year, over 400 suspected Boko Haram members were killed in JTF raids and in firefights during Boko Haram attacks on towns. 38 civilians have also allegedly been killed by the military this year. In addition, at least 150 detainees died in military custody.

On 19 March 2014, Amnesty International received information that the military had bombed Kayamla village, killing 10 civilians. According to one staff at the State Specialist Hospital who spoke to six wounded people from the village, the fighter jet launched series of bombs on the village after community people had given information to the army that some Boko Haram fighters fleeing Maiduguri after the attack on Giwa barracks had passed through the village. Many villagers sustained injuries. When Amnesty International spoke to the hospital staff on Wednesday 26 March 2014, he reported that two of the six wounded people have died in hospital from injuries sustained by fragments.

THE "CIVILIAN JOINT TASK FORCE"

The "Civilian JTF", loosely organised vigilantes, was set up in 2013 in Maiduguri, Borno state to work with the Nigerian security forces to restore normalcy to the state. Their primary responsibility, according to security and government officials, is to identify and help arrest suspected Boko Haram members. There are consistent reports of human rights abuses by the Civilian JTF.

The name "Civilian JTF" is being used to show the association between the JTF (comprising the Nigerian army, Police and State Security Services) and the civilians who have volunteered to serve as vigilantes in the fight against Boko Haram in Borno state.

The group of vigilantes emerged after President Goodluck Jonathan declared a State of Emergency in in Adamawa, Borno and Yobe state in May 2013. Initially it had no command structure. It was not established by law and has no known Code of Conduct. As the months progressed, however, selected individuals were made "commanders" and "area coordinators". Members of the "Civilian JTF" are supervised by Nigerian security forces. They give information and hand over Boko Haram suspects to the security forces (otherwise known as JTF). Several hundreds have been trained by the authorities. According to local sources, they receive regular allowances. There is no known recruitment procedure.

Amnesty International and other human rights organisations have expressed concerns about the use of children between the ages of 15 - 17 manning checkpoints for the "Civilian Joint Task Force" in Maiduguri.

Nigeria is state party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, which prohibits the recruitment and use of children under 18 in hostilities by armed groups distinct from the country's armed forces.

HUNDREDS UNLAWFULLY KILLED BY THE NIGERIAN SECURITY FORCES ON 14 MARCH 2014

On Friday 14 March, at 7 am Boko Haram members attacked the Giwa barracks in Maiduguri, Borno state and opened the cells to release the more than 1,000 detainees, who were arrested under suspicion of being members or sympathisers of Boko Haram. A video released by Boko Haram shows gunmen entering the Giwa military barracks, setting ablaze scores of vehicles in the compound, before releasing hundreds of people, including women, children. Many of those released looked frail and were barefooted.

Eyewitnesses told Amnesty International that the attackers came from a nearby village and crossed the Yedzaram River.

One resident in Mairi, Mallam Ibrahim[1] described what he saw during the attack: *"On Friday morning around 7 to 7:30 in the morning, I heard gunshots. I came out to the back of my house and saw gunmen running towards the barracks. I live close to the barracks. We were all scared. We knew the day is going to be very bad for all of us. We stayed indoors with my family. The gunshots continued non-stop. It took about an hour before we heard the fighter jet."*

"A few minutes later, we saw lots of people coming towards our house from the barracks. Many of them

look hungry, barefooted and were asking for water. Some did not even have full clothes on. We came out and started helping them. We gave them water and some fruits. We later took them to a classroom in the University of Maiduguri. They were 56 in total. They told us they are all detainees from Giwa," added Ibrahim.

A human rights defender interviewed by Amnesty International said the detainees told him that after their cells were opened by Boko Haram, the detainees were given the option of either joining the attackers or going home. Many of the detainees decided to go home. Boko Haram is said to have taken some of their members who were detained and then left Maiduguri.

Another resident at Jiddari Polo, in Maiduguri told Amnesty International that many of the detainees were unable to walk. He said many looked starved and frail.

Mallam Ibrahim and one other resident in Mairi told Amnesty International that, less than an hour after the detainees left the barracks, two Hilux trucks filled with government soldiers came to the scene where the 56 former detainees were gathered. Mallam Ibrahim said: *"[The soldiers] asked all of us to leave the area. The former detainees were all in the classroom. They started screaming 'we are not Boko Haram. We are detainees!' I and my other neighbours saw the soldiers take the former detainees to a nearby place called 'no man's land,' behind the University of Maiduguri. We stood there and watched while the soldiers opened fire and killed the 56 people we had just given fruits and water. They were shot and killed in front of us. All of them. Just like that."*

According to Mallam Ibrahim, among the 56 people executed by the army was a 15 year old boy. He said the boy told them he was arrested in May 2013 with sixteen other young boys between the ages of 15 and 19 years. He said: "*The boy told us he was the only survivor to have come out [among the 17] of Giwa as all his colleagues had died in detention. He had just finished giving me the name and address of his mother when the soldiers arrived. He was killed with the others. I don't know if I should tell his parents or not.*"

In the following hours, many of the escaped detainees were re-arrested, gathered together and executed. Eyewitnesses told Amnesty International of similar killings by soldiers of groups of thin and frail looking people in other areas of Maiduguri city and other localities such as Abujan Kalankawa and Dunomari. In several photos received by Amnesty International from a resident who witnessed the killings there are visible marks of old wounds and laceration on the bodies of the deceased.

Eyewitnesses from other locations such as Jiddari and 202 Housing Estate in Maiduguri also confirmed that most of the people killed after the Friday 14 March attack were detainees who fled Giwa barracks and were captured and handed over to the soldiers by members of the "civilian JTF". None of the re-arrested detainees were armed.

Amnesty International has received a video showing a soldier dragging an unarmed young man along Jiddari Polo junction in Maiduguri, before shooting him at close range. The corpse was left next to a pile of dead bodies in the middle of the road. The video appears to show that the man posed no threat and was shot in cold blood. This amounts to an extrajudicial execution, a crime under international law. There are no reports of soldiers like the one visible on the video, suspected of committing such crimes, being arrested, detained or prosecuted.

Former detainees shortly after they were re-arrested by the "civilian JTF" and executed by the security forces in Jiddari Polo area in Maiduguri on 14 March 2014. © private

An analysis of the video's content shows that it is consistent with eyewitness accounts of the killings and incidents that took place following Boko Haram's attack on the barracks.

On Friday 14 March 2014, the Defence Headquarters in Abuja released a statement stating that the Nigerian army had "successfully repelled" the attack on Giwa barracks "with heavy human casualty on the terrorists." The statement claimed that some of the detainees were killed by the attackers. Evidence documented by Amnesty International however suggests that the overwhelming majority of detainees who died were killed by the JTF.

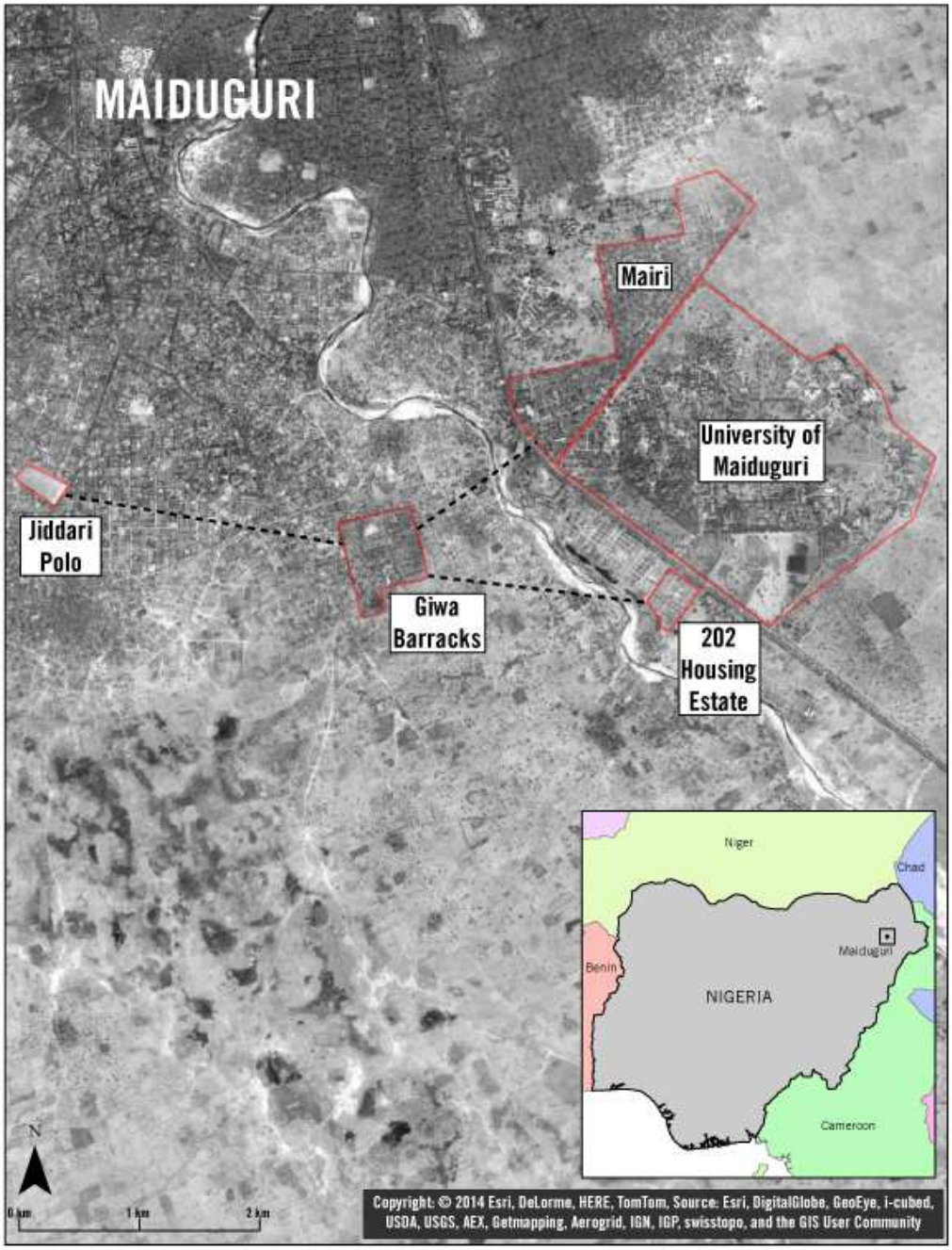
Another eyewitness described to Amnesty International how soldiers at a checkpoint on Ali Garawi Road in Maiduguri executed more than 190 people brought to them in batches by members of the "civilian JTF". He said many of the people killed were former detainees who were unable to escape and looked too frail to run: *"The civilian JTF brought the people to the soldiers, many were barefooted. Some did not even have clothes on and they looked hungry. I saw the soldiers asking the people to lie on the ground. There was a small argument between the soldiers and the civilian JTF. The soldiers made some calls and a few minutes later they started shooting the people on the ground. I counted 198 people killed at that checkpoint on Friday."*

Amnesty International has spoken to residents, lawyers, human rights defenders and hospital staff in various locations within and around Maiduguri including Mairi, Jiddari Polo, as well as 202 Housing Estate, who gave consistent accounts of the killings that took place after the attack on Giwa military barracks.

The timeline below shows the number of deaths reported on Friday 14 March 2014 by witnesses in Maiduguri:

- Around 8:30am to 9:30am, 56 people were killed by soldiers behind the University of Maiduguri.
- Between 10:00am and 3:00pm, up to 148 people were killed in Mairi area. They were executed in batches at "no man's land".
- At approximately 11:00am, between 100 and 198 people were killed by soldiers at a checkpoint on Ali Garawi Road and Bulamari in Jiddari area, Maiduguri.
- Between 12:00pm and 4:30pm, 120 dead bodies were deposited at the State Specialist Hospital mortuary by soldiers and members of the "civilian JTF". Staff at the hospital told Amnesty International the bodies were brought from different areas in Maiduguri.
- One human rights defender recounted that she counted 15 people reportedly killed and left at the entrance of Giwa barracks, around 9:00am and the dead bodies left on display
- Over 30 former detainees were killed in London Chiki area, a community activist said.
- In Kaleri, an eye witness in the community told Amnesty International that up to 75 people were brought to the army by members of the "civilian JTF" before they were assembled and shot dead by soldiers in the army base nearby. 35 were shot around 1 pm; an hour later 40 were killed.
- Up to 78 people, all believed to be former detainees, were reportedly killed in the morning in different locations such as Madaganari, and Abujan Kalankawa.

According to reports received from eyewitnesses, family members, lawyers and community activists, at least 622 people were killed by the security forces on 14 March. The actual number could even be higher.



FORMER DETAINEES BURIED IN MASS GRAVES

After the killings on Friday 14 March, many dead bodies were left lying on the streets and other areas for several hours and in some cases until Saturday 15 March 2014 before they were eventually collected by staff of the Borno State Environmental Protection Agency (BOSEPA) and loaded into trucks for burial.

"On Saturday 15 March, I and many other watched while the soldiers and BOSEPA staff buried more than 100 people in two big holes in Kaleri. The burial took about three hours, from around 3pm to 6pm in the evening. About 30 people were involved in the burial," said Mohammed Bukar[2], a resident of Kaleri in an interview with Amnesty International.

Others also told Amnesty International that dead bodies were buried in a mass grave in Dunomari, a community in the outskirt of Maiduguri. In his interview with Amnesty International, Mohammed Bukar explained how the graves were prepared: *"Around 12:30 pm on Saturday afternoon, a caterpillar bulldozer came to the area near the army checkpoint in Dunomari, behind the University of Maiduguri Teaching Hospital. They spent over two hours digging two big holes. After they finished digging, they started dumping the bodies that had been lying on the ground nearby. And then between 2:30 to 3:00 pm, they started bringing the dead bodies in vehicles. I counted seven BOSEPA vehicles all loaded with bodies. The bodies were then buried in the two big holes and covered. Lots of people witnessed the burial, including young children. It was a pathetic sight. The soldiers did not allow us to take photos or video."*

Information about possible mass graves in Dunomari were corroborated with satellite image analysis commissioned by Amnesty International from DigitalGlobe's Analysis Centre. Satellite images of 20 March 2014 showed three possible mass graves, approximately 30 to 50 meters from the main road and 315 meters from the University of Maiduguri Teaching Hospital campus. Two graves have linear shapes which are commonly observed in ground photos and satellite imagery of mass graves. The sizes are approximately 12x2 meters and 8x2 meters respectively. Another possible grave was observed 47 meters from the first two but in a circular shape with a diameter of 6 meters. Though the disturbances in the soil could be related to construction in the area, the most recent imagery does not exhibit any further construction on those sites.

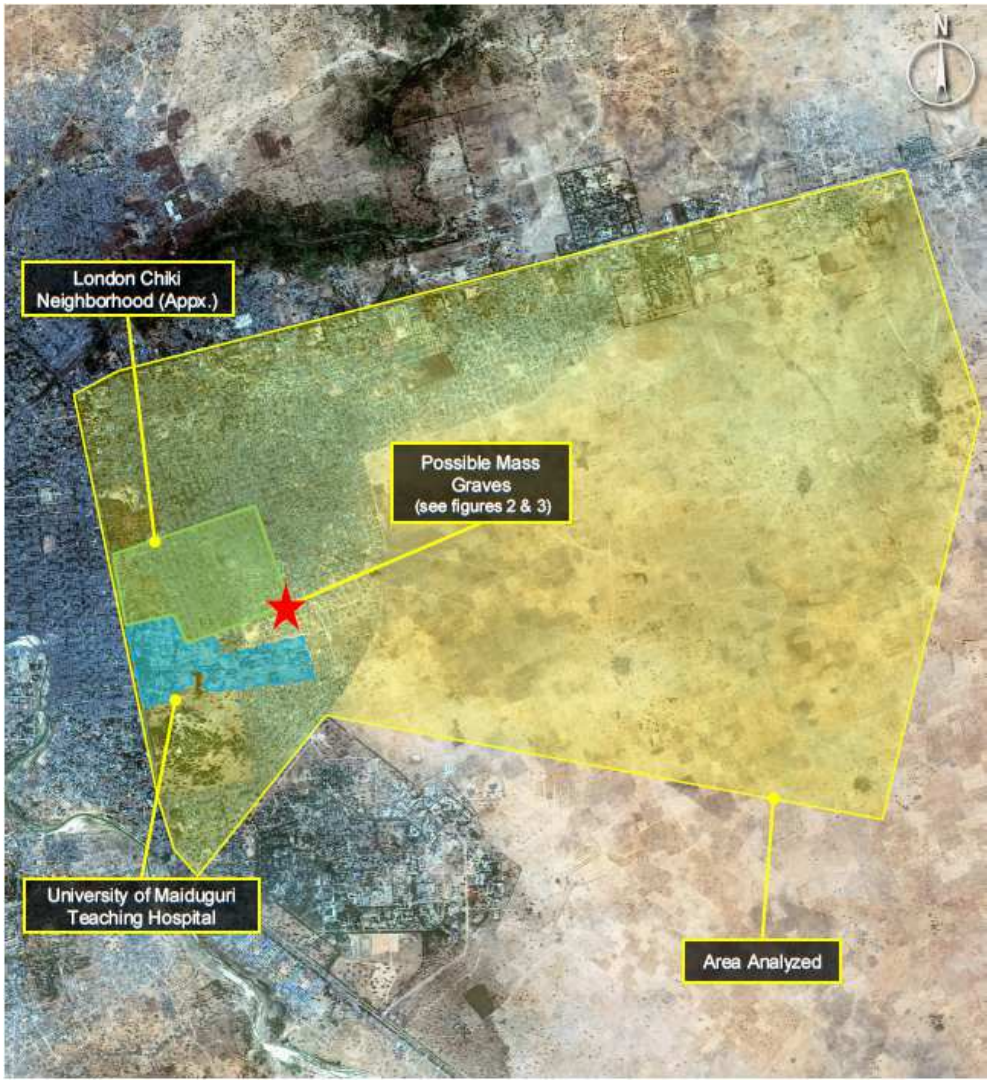
Despite the existence of Nigerian laws and international standards requiring investigations of any use of firearms resulting in deaths and prosecution of suspected perpetrators where deaths have been unlawful, such investigations are rarely carried out and relatives are hardly ever officially informed about the death of their family members.

Hospital staff told Amnesty International that some family members went to the State Specialist hospital mortuary to find out if their relatives were among the Giwa barracks detainees killed, but were turned away by the soldiers at the hospital.

The execution of former detainees by the security services amounts to crimes against humanity and war crimes. The Federal Government must immediately exhume the bodies for an independent autopsy examination to be carried out as a matter of urgency.

International standards require "thorough, prompt and impartial investigation of all

suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances".[3] The death of anyone in custody – or otherwise at the hands of security forces – merits an inquiry whose goal should be to identify the body and determine the cause and circumstances of death. It should include an adequate autopsy. Dependants or relatives of persons killed, or their legal representatives, are also entitled to an independent process, including judicial process, and publication of a report of the investigation.



Top: Approximately 40 square kilometres were analysed in search of large soil disturbances occurring between March 12 and March 20, 2014. The reported location of mass graves was in an open area behind the University of Maiduguri Teaching Hospital (UMTH) close to a military checkpoint. Possible mass graves were observed around the London Chiki neighbourhood approximately 315 meters from the UMTH campus near a checkpoint. ©DigitalGlobe

Top: Satellite images from 12 and 20 March 2014. A probable checkpoint is observed behind the UMTH. New areas of disturbed earth can be seen between March 12 and March 20, 2014. Measurements of the possible grave sites are: A) 12x2 meters, B) 8x2 meters, C) Diameter is 6 meters. © DigitalGlobe

DEATH IN MILITARY CUSTODY CONTINUING

On 15 October 2013, Amnesty International revealed that more than 950 detainees had died in detention facilities run by the JTF in the first six months of 2013 alone.

Amnesty International has received credible evidence that detainees continue to die in military custody, especially in Giwa barracks. Even though the number of deaths per day has reduced as compared to the first six months of last year, according to hospital staff in Maiduguri, detainees continue to die on a weekly basis. Between January and March 2014, approximately 150 dead bodies were brought by the military to the State Specialist hospital mortuary. According to the descriptions from the hospital staff and the photos received by Amnesty International, none of the bodies had gunshot wounds:

On 15 January 2014, Amnesty International received information that fifteen (15) dead bodies were deposited by soldiers at the State Specialist Hospital mortuary in Maiduguri. In an interview with Amnesty International, a hospital employee said: "*The soldiers came to the hospital with one Armour tank and one Toyota Hilux van. About seven soldiers. They ordered the mortuary attendants to off load the bodies from the van. I counted 15 bodies. They all looked thin and had burn scars. Some did not have clothes and they looked like they had died of starvation. They look similar to the other bodies usually brought from Giwa barracks.*"

A senior military officer in the Nigerian army who spoke to Amnesty International on condition of anonymity confirmed: "*The situation in the detention may have improved a bit, but has not completely changed. If anybody tells you that people have stopped dying in military detention they are lying. However, the scale at which it was happening last year has reduced.*"

Many of the reported cases of deaths in custody have taken place in Giwa military barracks in Maiduguri. Amnesty International has documented the unlawful arrest and detention of hundreds of people by the JTF in response to the violence in some parts of north-eastern Nigeria. Many have been detained incommunicado for lengthy periods without charge or trial, without being brought before any judicial authority, without access to lawyers and without proper notification of family members.

In an interview with Amnesty International in February 2014, Zulaika Umar[4] the wife of a detainee in Giwa barracks said that her husband was arrested by soldiers at his home on 1 May 2012, and has not been seen by anyone since. At the time of arrest, she was seven months pregnant. Now her child is over one year old. She said: "*My child does not know who her father is. We don't know whether he is dead or alive. The army has never allowed anyone to visit him.*"

In December 2013, a 19 member Joint Investigations Team (JIT) set up by the former Chief of Defence Staff (CDS) to investigate conditions of detention in facilities run by the Nigerian military, submitted its report to the CDS and the National Security Adviser (NSA) recommending the release of more than 160 detainees and the prosecution of 500 detainees in military custody in the states of Adamawa, Borno and Yobe. However, at the time of writing, Amnesty International has received no information about the implementation of these two recommendations. The report has not been made public.

Bodies of detainees from 'Guantanamo' (sector Alpha detention centre) in Damaturu, Yobe state, June 2013. None of the bodies had gunshot wounds and according to a senior military officer these bodies were among 47 detainees who died of suffocation in one day. © Amnesty International

Corpses of detainees from Giwa Barracks, brought by the military to the mortuary in Maiduguri, April 2013. © Amnesty International

Since 2012, Amnesty International has repeatedly raised its concerns with the Nigeria government about the treatment of detainees in military custody in northern Nigeria, the conditions of detention, the lack of access to military detention facilities by lawyers and human rights monitors, and the flouting of the rule of law.

WAR CRIMES AND CRIMES AGAINST HUMANITY

In the case of a non-international armed conflict, the Rome Statute defines war crimes as serious violations of Article 3 common to the four Geneva Conventions (acts against people taking no active part in the hostilities, including violence to life and person, cruel treatment and torture) and other serious violations of the laws and customs of war (including, inter alia, making the civilian population or individual civilians, not taking a direct part in hostilities, the object of the attack, launching a disproportionate attack or an indiscriminate attack resulting in death or injury to civilians, committing sexual violence, and collective punishments).

Certain acts, if directed against a civilian population as part of a widespread or systematic attack, and as part of a state or organizational policy, amount to crimes against humanity. Such acts include, among others, murder, torture, and enforced disappearances.

All states have an obligation to investigate and, where enough admissible evidence is gathered, prosecute crimes against humanity and war crimes, as well as other crimes under international law such as torture, extrajudicial executions and enforced disappearances.

HUMANITARIAN CRISIS AND IMPACT OF THE CONFLICT ON CIVILIAN POPULATION

The ongoing fighting between Boko Haram and the Nigerian security forces has had damaging impact on the lives of millions of people across north-east Nigeria. The humanitarian situation in the region has reached unprecedented levels.

Hundreds of thousands of people have been forced to seek refuge in neighbouring countries and thousands more have been made internally displaced. According to the United Nations High Commission for Refugees (UNHCR) "…the crisis in north-eastern Nigeria, exacerbated by the declaration of the state of emergency in Borno, Yobe and Adamawa States on 14 May 2013 (extended for six months on 12 November 2013), more than 520,000 people, mainly women, children and elderly people have been forced to flee inside Nigeria or seek refuge in neighbouring countries (Niger, Cameroon and Chad)."[5]

On Tuesday 26 March 2014, the Director-General of the Nigerian National Emergency Management Agency (NEMA) said more than 250, 000 people have been displaced as a result of the fighting in north-eastern Nigeria.

NIGERIAN GOVERNMENT'S FAILURES TO ADDRESS IMPUNITY

Amnesty International has repeatedly urged the authorities to conduct thorough and independent investigations into the alleged human rights violations and abuses with a view to bringing suspected perpetrators to justice in a fair trial.

Over the years, both State and Federal government have established inquiries into acts of violence including communal and sectarian violence in Nigeria's middlebelt, unlawful killings, poor conditions in detentions and other instances of violations and abuses, but their findings and recommendations have mostly not been made public. Criminal investigations have been inadequate, with serious doubts over the quality of evidence against those arrested.

In 2013, the committee set up by President Goodluck Jonathan to investigate and explore options for bringing an end to the on-going fighting in northern Nigeria submitted its report to the Presidency. The findings of the Committee's report have not been made public.

Following previous incidents of political, communal and sectarian violence, scores of people were rounded up by the police and security forces but few have been successfully prosecuted.

According to information received by Amnesty International, previous commissions of inquiry into allegations of human rights abuses have named suspected perpetrators, yet very few people are aware of the content of these reports. In many cases, no criminal investigation is initiated on suspected perpetrators. Victims of violence have not received redress or reparation, including compensation, leaving people destitute and further stoking feelings of resentment and desperation. Victims and their families have a right to know the truth about the abuse of their rights including the identities of individuals or groups responsible for carrying out or ordering violations.

As such, Amnesty International is urging the international community, in collaboration with credible national civil society organisations and the National Human Rights Commission of Nigeria, to set up an independent and international commission of enquiry with a mandate to investigate grave human rights abuses and violations that may constitute war crimes and crimes against humanity committed in north-eastern Nigeria.

NIGERIA'S OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONAL HUMANITARIAN LAW

Nigeria is a party to major regional and international human rights treaties. Of particular relevance to this briefing are the right to life, the right to liberty and security of person, the right to a fair trial, and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, which are recognized and protected under the African Charter on Human and Peoples' Rights, which Nigeria ratified in June 1983.[6]

The same rights are recognized and protected under the International Covenant on Civil and Political Rights (ICCPR), to which Nigeria acceded in October 1993. These rights must be respected and ensured even "in time of public emergency which threatens the life of the nation." The International Court of Justice and the UN Human Rights Committee have affirmed that international human rights law applies in time of armed conflict as well as peacetime; some (but not all) rights may be modified in their application, or "derogated from" or limited in situations of armed conflict, but only to the extent strictly required by the exigencies of the particular situation and without discrimination.[7]

The ICCPR also requires that all allegations of human rights violations are promptly, independently, impartially and thoroughly investigated.

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

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

INTERNATIONAL HUMANITARIAN LAW

International Humanitarian Law (IHL), also known as the laws of war, contains the rules and principles that seek to protect primarily those who are not participating in hostilities, notably civilians, but also certain combatants, including those who are wounded or captured. It sets out standards of humane conduct and limits the means and methods of conducting military operations. Its central purpose is to limit, to the extent feasible, human suffering in times of armed conflict.

Nigeria is a state party to the four Geneva Conventions of 1949 and their two Additional Protocols of 1977, the principal IHL instruments. Many of the specific rules included in these treaties, and all of those set out below, in any event also form part of customary

international humanitarian law and are thus binding on all parties to any conflict, including non-state armed groups.[8] Violations of many of these rules may amount to war crimes.

A fundamental rule of international humanitarian law is that Parties to any conflict must at all times "distinguish between civilians and combatants", especially in that "attacks may only be directed against combatants" and "must not be directed against civilians."[9] A similar rule requires parties to distinguish between "civilian objects" and "military objectives". These rules are part of the fundamental principle of "distinction".

For the purposes of distinction, anyone who is not a member of the armed forces of a party to the conflict is a civilian, and the civilian population comprises all persons who are not combatants.[10] Civilians are protected against attack unless and for such time as they take a direct part in hostilities.[11]

Civilian objects are all objects (that is, buildings, structures, places, and other physical property or environments) which are not "military objectives", and military objectives are "limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage."[12] Civilian objects are protected against attack, unless and for such time as they become military objectives because all of the criteria for a military objective just described become temporarily fulfilled.[13] In cases of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling, or a school, is being used for military purposes, it is to be presumed not to be so used.[14]

Intentionally directing attacks against civilians not taking direct part in hostilities, or against civilian objects (in the case of non-international conflicts, medical, religious or cultural objects in particular), is a war crime.[15] The principle of distinction also includes a specific rule that "acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited."[16]

The corollary of the rule of distinction is that "indiscriminate attacks are prohibited".[17] Indiscriminate attacks are those that are of a nature to strike military objectives and civilians or civilian objects without distinction, either because the attack is not directed at a specific military objective, or because it employs a method or means of combat that cannot be directed at a specific military objective or has effects that cannot be limited as required by international humanitarian law.[18]

International humanitarian law also prohibits disproportionate attacks, which are those "which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."[19] Intentionally launching an indiscriminate attack resulting in death or injury to civilians, or a disproportionate attack (that is, knowing that the attack will cause excessive incidental civilian loss, injury or damage) constitute war crimes.[20]

INTERNATIONAL CRIMINAL LAW

Individuals, whether civilians or military, who commit certain violations of international

humanitarian law and grave abuses of human rights can be held criminally responsible for these actions under international criminal law.

All states have an obligation to investigate and, where enough admissible evidence is gathered, prosecute genocide, crimes against humanity and war crimes, as well as other crimes under international law such as torture, extrajudicial executions and enforced disappearances.

Grave breaches of the Geneva Conventions and Additional Protocol I and most other serious violations of international humanitarian law are war crimes. Definitions of these crimes are included in the Rome Statute. The list of war crimes in Article 8 of the Rome Statute of the International Criminal Court basically reflected customary international law at the time of its adoption, although they are not complete and a number of important war crimes are not included.

According to the Rome Statute, certain acts, if directed against a civilian population as part of a widespread or systematic attack, and as part of a state or organizational policy, amount to crimes against humanity. Such acts include, among others, murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, persecution, rape and other sexual crimes, and enforced disappearances.

RECOMMENDATIONS

Given the serious and credible allegations that war crimes and crimes against humanity have been committed and Nigeria's apparent unwillingness and inability to ensure justice and reparation for victims of crimes under international law, it is vital that the regional and international human rights bodies step up in ensuring that thorough, independent, impartial and transparent investigations are conducted. Nigeria should seek international assistance and advice in the conduct of these investigations and any subsequent prosecutions.

In particular, Amnesty International has the following recommendations:

TO THE AUTHORITIES OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA:

- Take immediate and effective measures to guarantee the safety, security and protection of civilians and their properties in the affected communities and States, and in the entire country at large, and increase efforts to secure the lives and integrity of the persons of the civilian population in accordance with its regional and international human rights obligations.
- Ensure that its security forces and members of the "civilian JTF" adhere strictly to their obligations under international human rights law and international humanitarian law, in particular, ensure that detainees are protected from extrajudicial executions, torture and other ill-treatment and are treated humanely at all times.

- Provide unhindered access to the National Human Rights Commission and other human rights monitors to visit places of detention run by the military in Borno, Yobe and Adamawa states.
- Initiate independent, impartial, and thorough investigations into allegations of unlawful killings and extrajudicial execution of former detainees from Giwa barracks following the 14 March 2014 attack and seek the assistance of international experts in conducting these investigations; all the dead bodies in the mass graves in Dunomari should be exhumed with a view to conducting an independent autopsy by recognised Nigerian and international forensic pathologists to determine cause and circumstances of death.
- Invite and ensure unhindered and secure access, as a matter of urgency, to human rights monitors from the African Commission on Human and Peoples' Rights and the UN to investigate violations and abuses committed by all parties to the armed conflict.
- Ensure immediate, unhindered and secure access for humanitarian agencies to the displaced and other civilians in need of assistance.

TO BOKO HARAM:

- Immediately end deliberate attacks against civilians, schools and other civilian objects, and indiscriminate and disproportionate attacks.
- Publicly condemn, from the highest level of leadership, all unlawful killings and other human rights abuses and violations of international humanitarian law committed by their forces.
- Instruct their forces that such abuses will not be tolerated under any circumstances.
- Remove from the ranks anyone suspected of responsibility for ordering or committing serious violations of international humanitarian law and human rights abuses.
- Cooperate with independent and impartial investigations into violations.

TO THE AFRICAN UNION (AU), THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) AND THE AU PEACE AND SECURITY COUNCIL

- Urgently assess the conflict situation in north-eastern Nigeria and provide full and effective support to the Government of the Federal Republic of Nigeria in its efforts to end these acts of violence against civilians, war crimes and crimes against humanity and closely monitor the human rights situation in the country.
- Strongly and publicly condemn the on-going war crimes and crimes against humanity committed by all parties to the conflict in north-eastern Nigeria and draw the situation to the attention of the AU assembly with recommendations to end the on-going crimes under international law by all parties to the conflict.
- Publicly encourage the Government of Nigeria to initiate urgently thorough, independent, impartial and transparent investigations as well as seek regional and international assistance and advice in the conduct of these investigations and any subsequent prosecutions.

TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

- Further to its resolution passed on the 5th Extra- Ordinary Session 14 March 2014, publicly condemn the on-going war crimes and crimes against humanity in north-

eastern Nigeria and draw the attention of the matter to the Chairperson of the AU Assembly and the AU Peace and Security Council in accordance with Article 58(3) of the African Charter.

- Urgently assess the situation in north-eastern Nigeria and initiate immediate protection measures, including carrying out a fact-finding mission to Nigeria to investigate allegations serious violations of human rights.

TO THE UN HUMAN RIGHTS COUNCIL

- Convene as a matter of urgency, a special session on Nigeria, to explore immediate options of sending international human rights monitors to the affected areas in collaboration with the Nigerian government, the African Union and other relevant stakeholders to the conflict.

TO THE INTERNATIONAL CRIMINAL COURT PROSECUTOR:

- Consider these latest allegations of crimes, especially the killings on Friday 14 March 2014, in its on-going preliminary examination of the situation in north-eastern Nigeria.

ENDNOTES

1. The names used in this report are not the real names
2. The names used in this report are not the real names
3. The UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Principle 9)
4. Not her real name
5. See http://reliefweb.int/sites/reliefweb.int/files/resources/NigeriaSituationOverview-Regional_February_2014.pdf accessed on 27 March 2014
6. Implemented in domestic law in 1983 in the African Charter on Human and Peoples' Rights (ratification and enforcement) Act Cap 10 Laws of the Federation of Nigeria
7. International Court of Justice, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories, 9 July 2004, paragraph 104; Human Rights Committee, General Comment no 31, paragraph 11.
8. Red Cross study, Customary International Humanitarian Law: Volume 1: Rules, J-M Henckaerts and L Doswald-Beck, eds, 2005 ("ICRC Customary IHL Study")
9. ICRC Customary IHL Study, Rule 1; see also Protocol I, article 48 and Protocol II, article 12(2).
10. ICRC Customary IHL Study, Rule 5; see also Protocol I, article 50.
11. ICRC Customary IHL Study, Rule 6; see also Protocol I, article 51(3); Protocol II, article 13(3).
12. ICRC Customary IHL Study, Rules 8 and 9; Protocol I, article 52.
13. ICRC Customary IHL Study, Rule 10.
14. Protocol I article 52(3). See also ICRC Customary IHL Study, pages 34-36.
15. ICRC Customary IHL Study, Rule 156, pages 591,593,595-598. See also Rome Statute of the ICC, articles 8(2)(b)(i) and (ii) and 8(2)(e)(i)(ii)(iv) and (xii) [see also discussion in ICRC Customary IHL Study, page 27]
16. ICRC Customary IHL Study, Rule 2; see also Protocol I, article 51(2) and Protocol II articles 12(2).
17. ICRC Customary IHL Study, Rule 11; Protocol I, article 51(4).
18. ICRC Customary IHL Study, Rule 12; Protocol I, article 51(4)(a).
19. ICRC Customary IHL Study, Rule 14; Protocol I, articles 51(5)(b) and 57.
20. ICRC Customary IHL Study, Rule 156, pages 599-601.

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