



Home Office

# Country Policy and Information Note

## Nigeria: Prison conditions

Version 1.0

November 2016

# Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

## Country Information

The COI within this note has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

## Feedback

Our goal is to continuously improve the country policy and information we provide. Therefore, if you would like to comment on this document, please email [the Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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# Policy guidance

Updated: 2 November 2016

## 1. Introduction

### 1.1 Basis of claim

1.1.1 Fear of being imprisoned on return to Nigeria and that prison conditions are so poor as to amount to a real risk of serious harm.

### 1.2 Other points to note

1.2.1 This guidance is concerned solely with whether prison conditions are such that the removal of a person who faces a real risk of imprisonment would be a breach of Article 3 of the European Convention on Human Rights (ECHR). If so, they should be granted Humanitarian Protection or Discretionary Leave. If the person would be imprisoned for a Convention reason or subject to harsher treatment or punishment for a Convention reason then that may amount to persecution and they may be entitled to a grant of Refugee Leave.

1.2.2 Where a claim by a male falls to be refused, it must be considered for certification as clearly unfounded under section 94(3) of the Nationality, Immigration and Asylum Act 2002 as Nigeria is listed as a designated state in respect of men only.

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## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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### 2.2 Risk of imprisonment

2.2.1 Decision makers must establish the likelihood that the person will be imprisoned on return including if necessary whether the alleged offence constitutes an offence under Nigerian law, and if so, is one which is likely to be punishable by a term of imprisonment. For details about what offences are punishable by imprisonment see the [Nigerian Criminal Code Act](#).

2.2.2 If the person is likely to be imprisoned on return, decision makers must also consider whether the law is discriminatory or being disproportionately applied for a Convention reason, in which case that may amount to persecution and they may be entitled to a grant of Refugee Leave.

## 2.3 Exclusion

- 2.3.1 If the decision maker believes that the person is likely to face imprisonment on return to Nigeria, consideration must be given as to whether Article 1F – in particular Article 1F(b) – of the Refugee Convention is applicable.
- 2.3.2 For further guidance on the exclusion clauses, Discretionary Leave and Restricted Leave, see the [Asylum Instruction on Exclusion: Article 1F of the Refugee Convention](#), the [Asylum Instruction on Discretionary Leave](#) and the [Asylum Instruction on Restricted Leave](#).

## 2.4 Death penalty

- 2.4.1 The death penalty may be imposed in a number of criminal offences, including murder and armed robbery. There were reportedly 4 executions carried out in 2013 but none recorded since then. However 589 people were sentenced to death in 2015 (see [Death penalty](#) and the [Nigerian Criminal Code Act](#)).
- 2.4.2 Decision makers must establish the likelihood that the person will be imprisoned on return and whether they could face the death penalty.
- 2.4.3 For further guidance on the death penalty, see [Asylum Instruction on Humanitarian Protection](#).

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## 2.5 Prison conditions

- 2.5.1 Prison conditions, including unofficial detention centres operated by the security forces, are generally extremely poor. Many prisons have severe overcrowding, shortages of food and water, inadequate sanitary conditions and an absence of, or inadequate, medical treatment. There is also reportedly a high incidence of deaths in detention, as well as reports of torture, extra-judicial executions and extortion by guards. Around 70% of prisoners are awaiting trial, some of whom have spent long periods in detention (see [Prison and detention centre conditions](#)).
- 2.5.2 Conditions, however, vary between prisons, in part reflecting which government agency operates the place of detention, their purpose and location. Military detention centres, notably those in the north-east which are in or near to areas where the government is fighting Boko Haram, have reportedly particularly severe conditions, with torture and ill-treatment of prisoners widespread. Other prisons have better conditions, with lower levels of overcrowding (some have occupancy rates below their operational capacity) and a range of, albeit limited, facilities (see [Prison estate and population](#); [Prison and detention centre conditions](#)) Persons imprisoned in the UK who are transferred to Nigeria to complete their sentence will be sent to Kiri Kiri prison (see [UK-Nigeria prisoner transfer agreement](#)).
- 2.5.3 The government has taken some steps to improve detention conditions. Independent monitoring of detention centres is limited, although the International Committee for the Red Cross is able to access to prisons and detentions, including persons held by the military, and has been able to help improve conditions and assist prisoners (see [Government oversight and independent monitoring](#)).

- 2.5.4 Prison conditions in general are extremely poor but they are not systematically inhuman and life-threatening and do not meet the high threshold of Article 3 ECHR, though they may do so in individual cases. Decision makers must therefore carefully consider the individual factors of each case, taking into account available information on where the person will be detained. The onus is on the person to demonstrate that they will be detained and experience conditions that meet the Article 3 ECHR threshold.
- 2.5.5 For further guidance on assessing Article 3 ECHR, see the [Asylum Instruction on Humanitarian Protection](#), and on assessing risk generally, the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 Certification

- 2.6.1 If it is accepted that a person may be imprisoned on return, the claim, on this particular basis, is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.6.2 For further guidance on certification, see the [Appeals Instruction on Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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## 3. Policy summary

- 3.1.1 Prison conditions vary but are generally extremely poor due to overcrowding, inadequate facilities, and lack of proper sanitation. However conditions are in general not so systematically inhuman and life-threatening as to meet the threshold of Article 3 ECHR. Decision makers must consider each case on its facts. Depending on the particular circumstances of the person concerned, prison conditions may reach the Article 3 ECHR threshold in individual cases.
- 3.1.2 Nigeria retains the death penalty for certain crimes. However there have been no recorded executions since 2013.

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# Country information

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## 4. Criminal code

- 4.1.1 The Criminal Code Act, Chapter 77 Laws of the Federation of Nigeria 1990 is available online.<sup>1</sup>

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## 5. Prison estate and population

### 5.1 Overview

- 5.1.1 The World Prisons Brief provided an overview of the prison estate and population:

<b>Ministry responsible</b>	Ministry of Internal Affairs
<b>Prison administration</b>	Nigerian Prisons Service
<b>Contact address</b>	National Headquarters, Bill Clinton Drive, Airport Road, Abuja, Nigeria
<b>Telephone</b>	+234 9 234 1709
<b>Fax</b>	+234 9 234 4634
<b>Website</b>	<a href="http://www.prisons.gov.ng">http://www.prisons.gov.ng</a>
<b>Head of prison administration (and title)</b>	Emmanuel Oladipo Ogundele Controller General of Prisons
<b>Prison population total (including pre-trial detainees / remand prisoners)</b>	63 142 at 31.3.2016 (national prison administration)
<b>Prison population rate (per 100,000 of national population)</b>	35 based on an estimated national population of 182.25 million at end of March 2016 (from United Nations figures)

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<sup>1</sup> The Criminal Code Act Chapter 77 Laws of the Federation of Nigeria 1990, <http://www.nigeria-law.org/Criminal%20Code%20Act-Tables.htm>, accessed 14 September 2016

<b>Pre-trial detainees / remand prisoners (percentage of prison population)</b>	71.7% (31.3.2016) [...]
<b>Female prisoners (percentage of prison population)</b>	1.7% (31.3.2016) [...]
<b>Juveniles / minors / young prisoners incl. definition (percentage of prison population)</b>	1.7% (30.6.2014 - juveniles)
<b>Foreign prisoners (percentage of prison population)</b>	0.3% (30.6.2014)
<b>Number of establishments / institutions</b>	240 (October 2014)
<b>Official capacity of prison system</b>	50 153 (31.3.2016)
<b>Occupancy level (based on official capacity)</b>	125.9% (31.3.2016)
<b>Prison population trend (year, prison population total, prison population rate)</b>	2000 44,450 36
	2002 40,048 31
	2004 38,999 29
	2006 40,953 29
	2008 41,143 27
	2010 46,586 29
	2012 51,560 31

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5.1.2 The US State Department report on human rights for 2014 noted:

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<sup>2</sup> Institute for Criminal Policy Research, World Prisons Brief, Nigeria, undated, <http://www.prisonstudies.org/country/nigeria>, accessed on 15 September 2016



'The prison system included 234 prisons - including 12 maximum-security prisons, 83 satellite prisons, 10 farm centers, two women's prisons, eight zonal offices, and six directorates - all of which held prisoners and detainees. Detention of suspected militants did not always fall under the formal prison system structure. As of December [2014] the country's prisons held 56,620 persons, of which 2 percent were women and 1 percent juveniles. The federal government operated all prisons but few pretrial jail facilities. Of the total prison population, 70 percent were pretrial detainees.'<sup>3</sup>

- 5.1.3 The same source commenting on events in 2015 observed, however, that: 'Recordkeeping on prisoners was inadequate, and authorities did not take steps to improve it. Authorities inconsistently maintained records for individual prisoners in paper form but did not make them widely accessible. 'The ACJA [Administration of Criminal Justice Act] provided for alternative sentences other than prison custody, such as community service, parole, and suspended sentences; however, penal and judicial authorities did not use alternatives to incarceration for nonviolent offenders. While prison authorities allowed visitors within a scheduled timeframe, few visits occurred, largely due to lack of family resources and travel distances.'<sup>4</sup>
- 5.1.4 The same source, reporting on 2015, observed that: 'Authorities sometimes held female and male prisoners together, especially in rural areas. Prisons had no facilities to care for pregnant women or nursing mothers. Infants born to inmate mothers usually remained with the mother until weaned. Prison authorities often held juvenile suspects with adults. The government often detained suspected militants outside the formal prison system...'<sup>5</sup>
- 5.1.5 The Australian government's Department of Foreign Affairs and Trade report on Nigeria of February 2015, observed: 'According to the Nigerian Prison Service, in August 2014 there were approximately 47,628 prisoners in Nigeria. Credible international sources report the figure at around 56,620 as of December 2013 and suggest some Nigerian prisons are 200 to 300 per cent over capacity... The vast majority of detainees, approximately 77 per cent, are in pre-trial detention.'<sup>6</sup>
- 5.1.6 An article by news24.ng, citing a director of the Nigerian National Human Rights Commission, reported in October 2015 that there were 240 prison institutions spread across Nigeria, with 138 main prisons, 85 satellites, 14

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<sup>3</sup> US State Department (USSD), Country Reports on Human Rights Practices for 2014, Nigeria, section 1c, June 2015, <http://www.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

<sup>4</sup> USSD, Country Reports on Human Rights Practices for 2015, Nigeria, section 1c, April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

<sup>5</sup> USSD, Country Reports on Human Rights Practices for 2015, Nigeria, section 1c, April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

<sup>6</sup> Australian Government, Department of Foreign Affairs and Trade, Country Report, Nigeria, February 2015, p17, copy available on request, accessed on 15 September 2016

Farm Centres, and 3 borstal institutions. While total prison population is 56 718, comprising - 17 686 convicts (4,000 lifers; 1,612 condemned convicts) and 39,032 awaiting trial (70% of inmates in prisons). The number of prison staff was 28,065.<sup>7</sup>

5.1.7 The Nigerian National Human Rights Commission undertook an audit of 173 prisons in 2012. Its subsequent report provides detail on the size, facilities and conditions in the prison estate across the country. The audit identified considerable variation in the conditions of prisons, including levels of congestion, sanitation, vocational and recreational activities, provision of food, and health facilities.<sup>8</sup>

5.1.8 See the [NNHRD report](#) for further details.

## 5.2 Unofficial prisons and detention centres

5.2.1 The US State Department human rights report for 2015 noted that ‘During the year security services operated detention facilities outside the official federal penitentiary system.’ Further stating that these included the Giwa Barracks in Maiduguri, Borno State, and the Sector Alpha (aka “Guantanamo”) and Presidential Lodge (aka “the Guardroom”) facilities in Damaturu, Yobe State, among others.<sup>9</sup> The DFAT report of February 2015 observed that official figures for prisoners did not include ‘military prisons in northeast Nigeria, including the Giwa military barracks in Maiduguri, Borno State, and facilities in Yobe State.’<sup>10</sup>

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## 6. Prison and detention centre conditions

### 6.1 Prisons – general

6.1.1 The USSD Country Reports on Human Rights Practices for 2015 stated:

‘Prison and detention center conditions remained harsh and life threatening. Prisoners and detainees, the majority of whom had not been tried, were reportedly subjected to extrajudicial execution, torture, gross overcrowding, food and water shortages, inadequate medical treatment, deliberate and incidental exposure to heat and sun, and infrastructure deficiencies that led to wholly inadequate sanitary conditions that could result in death. Guards and prison officials reportedly extorted inmates or levied fees on them to pay

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<sup>7</sup> news24.com.ng, ‘70 percent of inmates in Nigerian prisons awaiting trial’, 9 October 2015, <http://www.news24.com/national/news/70-percent-of-inmates-in-nigerian-prisons-awaiting-trial-20151009>, accessed on 19 September 2016

<sup>8</sup> Nigerian National Human Rights Commission, Final Edited 2012 Prison Audit Executive Summary In Line With Council Directives, August 2013, <http://www.nigeriights.gov.ng/download.php>, accessed on 19 September 2016

<sup>9</sup> USSD, Country Reports on Human Rights Practices for 2015, Nigeria, section 1c, April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

<sup>10</sup> Australian Government, Department of Foreign Affairs and Trade, Country Report, Nigeria, February 2015, p17, copy available on request, accessed on 15 September 2016

for food, prison maintenance, and release from prison. Female inmates in some cases faced the threat of rape.<sup>11</sup>

6.1.2 The same report noted:

‘Overcrowding was a significant problem. Although the total designed capacity of the country’s prisons was 50,153 inmates, an imbalance in prison occupancy rates resulted in underutilization at some facilities, while others were at more than 800 percent of designed capacity. For example, in 2014 the Owerri Federal Prison had capacity for 548 prisoners but held more than 1,784. Ogwuashi-Uku Prison in Delta State, with a capacity of 64 prisoners, held 541, while Port Harcourt Prison, with a capacity of 804, held 2,955. Ijebi-Ode Prison in Gun State, with a capacity of 49 prisoners, held 309. In April extreme overcrowding in Gaur Satellite Prison, in Jigsaw, resulted in the death by suffocation of a prisoner.

‘Most of the 240 prisons were 70 to 80 years old and lacked basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in dangerous and unsanitary conditions. Disease remained pervasive in cramped, poorly ventilated prison facilities, which had chronic shortages of medical supplies. Inadequate medical treatment caused many prisoners to die from treatable illnesses, such as HIV/AIDS, malaria, and tuberculosis. Although authorities attempted to isolate persons with communicable diseases, facilities often lacked adequate space, and inmates with these illnesses lived with the general prison population. In 2014 the Nigerian Prison Service (NPS) reported the deaths of 36 prisoners, but there were no reliable independent statistics on the number of prison deaths during the year.

‘Only prisoners with money or support from their families had sufficient food. Prison officials routinely stole money provided for prisoners’ food. Poor inmates often relied on handouts from others to survive. Prison officials, police, and other security force personnel often denied inmates food and medical treatment to punish them or extort money.

‘Prisoners with mental disabilities remained incarcerated with the general prison population. Generally, prisons made few efforts to provide mental health services.’<sup>12</sup>

6.1.3 A ‘This Day’ report, ‘Appalling Prison Condition in Nigeria’, dated 5 February 2014, stated:

‘The recent death at the Kirikiri Prisons, Lagos, of Mr. Haman Tijuana, an alleged trans-border car snatcher and robbery kingpin, once again brings to the fore the appalling condition of the country’s prisons. It also raises questions about the plight of the 34,328 Awaiting-Trial-Inmates (ATMs) most

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<sup>11</sup> USSD, Country Reports on Human Rights Practices for 2015, Nigeria, section 1c, April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

<sup>12</sup> USSD, Country Reports on Human Rights Practices for 2015, Nigeria, section 1c, April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

of whom are treated as if they have no rights under the law... Apart from the fact that many of the inmates in our prisons are poorly-fed and ill-clad, in most cases, they are given little or no medical attention in contravention of the universally-accepted minimum standards. Worse still, most Nigerian prisons are congested. Not infrequently, this congestion has led to several jail breaks and outbreak of diseases in the prison environment causing the death of many prisoners. It is within that context that we should view the calamity that ultimately befell Tijuana.’<sup>13</sup>

6.1.4 A ‘Vanguard’ newspaper report, ‘Nigerian Prisons: Inmates open up on travails, triumphs’, dated 2 March 2013, stated:

‘Crime Guard, Monday, visited the three prisons in Kirikiri area of Lagos comprising the Maximum, Medium and Female Security Prisons with a view to carrying out an assessment of the situation inside the walls of the prisons.

‘The first sight that greeted this reporter on arrival at the Maximum Security Prison was the neat environment and well- trimmed Lawn and Table Tennis courts, as well as a football pitch, where inmates come out in the evening for exercise and leisure.

‘Although facilities at both the Maximum, Medium and Female Prisons hospitals were nothing to write home about compared to what obtains in government hospitals and elsewhere around the globe, but Prisons medical officers, though not enough to take care of the inmates, ensured they made do with what is available.

‘At the reference hospital of Maximum Security prisons for instance, there were no less than 30 beds, a far cry when compared with the number of inmates who came for treatment on daily basis. At least, 100 inmates reportedly visited the hospitals daily. The hospital also takes care of Zone a prison comprising Lagos and Ogun states. There are also facilities for anti and post natal care... But Dr Edwin Itemising (Dr on duty) told Crime Guard that the hospital was a referral hospital and is well equipped for its day-to-day running. He hinted that cases beyond their scope were transferred to either the Navy reference hospital or any of the government hospitals. However, there were two patients on admission at the Maximum Security prison; one of them, a Condemned Convict CC, said to have multiple problems ranging from asthma, inguinal scrota hernia, coupled with hypertension. The 68 year-old suspect who was transferred from Abeokuta Prisons told this reporter that the treatment and adequate care he was receiving at the prison, kept him alive.

‘Dental section takes care of inmates’ dental cases. But some of the inmates, as gathered, also have mental disorder. While some of them were said to have been brought into the prison in that state, others reportedly developed it through depression. The psychologist on duty explained that “basically, what we do here is to provide psychological intervention services

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<sup>13</sup> This Day, Appalling Prison Condition in Nigeria, 5 February 2014, <http://www.thisdaylive.com/articles/appalling-prison-condition-in-nigeria/170602/>, accessed on 1 June 2016

for both inmates and staff. At times, doctors do refer to us inmates that have psychological problems from other prisons and we send those we cannot handle at our own level out. So far, its been so good. At other times, psychiatrists come here to consult with them and when they do not have time, we take the inmates there"...Aside that, it was observed that every other thing such as sports, formal and informal education as well as vocational skills were also present in the prisons. More interesting, is the fact that fellow inmates with degrees from various fields were discovered to be teachers...Aside the primary and secondary levels of education, there were also inmates attending the Open University. When Crime Guard visited, they were writing their examination.

'Officer in charge of Welfare, Chukwuemeka Patrick, a Deputy Comptroller of Prisons, said the aim of establishing the schools was to ensure total transformation of the inmates...

"In the school, we have primary and secondary units— which sees to the remedial aspects of their education—for those of them who never had the privilege of education before coming to the prison. Or those of them that dropped out as a result of their lifestyles out there before they came to prison. The school has been in existence for about 15 years. There is also a GCE centre that has been on for 10 years.

"Over the years, we have always recorded more than 90 per cent success in our GCE results. WAEC [West Africa Examinations Board] has even given us commendation several times because of the work we are doing here. In the course of time, we felt there was a need to take it a step further. That is why we came about partnership and collaboration with Open University. And this university has been in existence for about seven years."<sup>14</sup>

6.1.5 A Unite Nigeria article, 'Nigerian Prisons: Death Traps or Reform Centres?', dated 9 January 2015, stated:

'Former Minister for Interior, Captain Emmanuel Iheanacho, is undoubtedly a tough merchant marine professional who still cherishes his training, although he is now retired. But Iheanacho who had been trained not to succumb to his emotions was to buckle while on a visit to Kuje Prison, Abuja, sometime last year, as he expressed shock at what he saw... Members of the Senate Committee on Interior, who also embarked on a tour of prisons in the country recently, were shocked by what they saw as they decried the dilapidation of the prisons, concluding they were no longer fit for human habitation. In its annual report to the Senate, The committee said that "a majority of the cells leak during the rains and the perimeter walls and some cells have, in some cases, collapsed."

'The report, signed by the chairman of the committee, Senator Olalekan Mustapha, noted, "In many of the prisons visited, the committee was moved

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<sup>14</sup> Vanguard, Nigerian Prisons: Inmates open up on travails, triumphs, 2 March 2013, by Evelyn Usman, <http://www.vanguardngr.com/2013/03/nigerian-prisons-inmates-open-up-on-travails-triumphs/>, accessed on 31 July 2016

by the plight of the inmates,” adding, “ many of the cells meant to accommodate about 50 inmates were found to accommodate about 150 inmates, all cramped together.”...The NPS [Nigerian Prison Service] has been riddled with the ever increasing number of Awaiting Trial Persons (ATPs) which, according to report, is put at 30,000 persons, representing over 65 per cent of the estimated prisoners population of 46,000. As in virtually all the prisons in the state, the challenge of awaiting trial persons is one too many...It has not only overstretched the facilities to breaking point, it is also a contributing factor to prison breaks nationwide...In addition to thousands of cases awaiting trial are the deplorable conditions of the prisons which has become worrisome over the years with no serious attempt being made by successive governments to improve the plight of detainees and other inmates in the nation’s prisons. This has cast doubts over whatever claims of successes that are touted by the prison authorities through the reform agenda and reintegration programme.

‘Records show that the Kirikiri Maximum Security Prison in Lagos, for instance, is overcrowded by 250 per cent. The prison, which was built for 956 inmates, is, today occupied by over 2,600 inmates. Most of these inmates are awaiting trial.

‘Prisons overcrowding is, without doubt, a major concern of the Nigerian criminal justice system hence the agitation to decongest them. Remand prisoners account for a substantial number leading to congestion, as a greater part of awaiting trial detainees in the nation’s prisons are held under the holding charge and many have spent up to 10 years waiting to be tried.’<sup>15</sup>

6.1.6 See also section on [UK-Nigeria prisoner transfer agreement](#) for information about Kiri Kiri prison.

6.1.7 A news24.com.ng report, ‘70 percent of inmates in Nigerian prisons awaiting trial’, dated 9 October 2015, stated:

‘The National Human Rights Commission (NHRC) has said that 70 per cent of inmates in prisons across the country are awaiting trial.

‘Morphy Okwa, the commission’s Assistant Director, Investigation and Coordination revealed this while presenting a report at a stakeholders’ validation of the 2014 prison audit report and 2015 election report.

‘Okwa [stated] that though prisons in six states were visited in the last exercise, a compilation of reports from previous visits informed the commission of the current situation.’<sup>16</sup>

6.1.8 Amnesty noted it is annual report covering events in 2015 noted that:

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<sup>15</sup> Unite Nigeria, ‘Nigerian Prisons: Death Traps or Reform Centres?’, 9 January 2015, <http://unitenigeria.com/nigerian-prisons-death-traps-reform-centres/>, accessed on 1 June 2016

<sup>16</sup> news24.com.ng, ‘70 percent of inmates in Nigerian prisons awaiting trial’, 9 October 2015, <http://www.news24.com.ng/national/news/70-percent-of-inmates-in-nigerian-prisons-awaiting-trial-20151009>, accessed on 19 September 2016

'In May [2015], the Administration of Criminal Justice Act was passed into law. The Act adopted new provisions which improved the criminal justice system. Key provisions included compensation to victims of crime, non-custodial sentences and electronic records of proceedings.

'However prisons remained overcrowded and court processes slow; frequent strikes by court employees, such as court clerks, over pay and the consequent closure of courts led to delays in trials and the supervision of pre-trial detention.'<sup>17</sup>

- 6.1.9 The Foreign Office's advice for British nationals who are imprisoned in Nigeria noted in its general observations on prisons that:

'The vast majority of prisons in Nigeria are seriously overcrowded and essentials such as running water, electricity and meals are likely to be considerably more basic than would be expected in a UK prison.

'The number of inmates to each cell depends entirely on the size of the cell and the number of prisoners in that particular prison. Women's prisons are separate to the men's. You should not expect to have your own cell. In the prisons, there is no provision for hot water. Each cell do[es] not have its own toilet; what exist[s] is a common toilet to serve a certain number of cells. Electricity is not regular though each prison has a generator to back up power supply, thus 3 hours of electricity daily on average is provided. Prisoners are brought out for at least one hour per day.'<sup>18</sup>

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## 6.2 Police and military detention centres

- 6.2.1 The Amnesty International report, 'Welcome to hell fire' - Torture and other ill-treatment in Nigeria', published in September 2014, largely based on interviews of persons held in police and military custody held between 2007 and 2014, observed:

'Amnesty International found that detention conditions in many of Nigeria's police stations and military facilities appear to be in violation of the country's obligations under international human rights law and standards, including the UN Standard Minimum Rules for the Treatment of Prisoners. They are damaging to the physical and mental well-being of detainees. Cells and other confinement spaces are generally severely overcrowded, hot and unhygienic, with little or no sanitation facilities. Food and water are grossly inadequate, with detainees in military detention in the north-east of the country at risk of dying due to starvation. Medical care is rare, and large numbers of people are reported to die in custody due to lack of treatment for their wounds and injuries...Almost all detainees arrested by the police spend time in police station cells before they are remanded by a court to a regular prison. Some may be detained for only a few days, but Amnesty

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<sup>17</sup> Amnesty International, Annual Report 2015/16, Nigeria, February 2016, <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>, accessed on 16 September 2016

<sup>18</sup> British High Commission, Abuja, Information Pack for British Prisoners in Nigeria, p 12 July 2016, <https://www.gov.uk/government/publications/nigeria-prisoner-pack>, accessed on 19 September 2016

International found that many spend weeks or even months in police detention cells...Detention cells in police stations were dirty, generally without beds or bedding, and unhygienic. Toilets or running water were rare and most detainees urinated and defecated in plastic bags or buckets inside the cell. Medical care remained non-existent.

'In addition to poor sanitation facilities, Amnesty International found that detention cells often lack adequate ventilation. This is exacerbated by overcrowding which is a major concern in police and military detention centres across Nigeria. The populations of police cells are usually at least twice or triple their capacity. Inmates commonly take turns to sit down or sleep.

'In addition to the poor conditions, many former detainees told Amnesty International that in the absence of any meals provided by the detaining authorities, they were forced to rely on their relatives to bring them food and money once the initial period of incommunicado detention was over. Detainees who fall sick were often not provided with medical care.

'Conditions are even worse in military detention, according to the accounts of former detainees in military detention centres in north-east Nigeria. Most detainees held for long periods are either at Giwa barracks in Maiduguri or at Sector Alpha ("Guantanamo") and "Presidential Lodge" in Damaturu. Lawyers and relatives are prevented from seeing or speaking to the detainees, and human rights defenders and organisations are denied access to both facilities.

'Overcrowding is particularly acute in military detention and according to reports received by Amnesty International, Giwa barracks was consistently filled to over-capacity. Around 1,600 detainees were held there until 14 March 2014 when the barracks were attacked by Boko Haram and many of them escaped. Since the attack, the barracks are filling up again, and are currently believed to hold a few hundred detainees. Damaturu is also similarly reported to have a few hundred detainees.'<sup>19</sup>

#### 6.2.2 The USSD report on human rights observed that

'According to press and NGO reports, in 2014 the NA [Nigerian Army]'s Seventh Division illegally detained and killed suspected members of Boko Haram in the Giwa Barracks in Maiduguri, Borno State, and the Sector Alpha and Presidential Lodge facilities in Damaturu, Yobe State. Former detainees alleged that torture, starvation, and other forms of mistreatment by security services resulted in detainee deaths.

'In 2014 AI released a report [Welcome to hell fire" - Torture and other ill-treatment in Nigeria] and claimed it had video footage showing members of the military, including members of the 81st Battalion and the CJTF [Civilian Joint Task Force], carrying out extrajudicial executions of detainees and

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<sup>19</sup> Amnesty International, 'Welcome to hell fire' – Torture and ill-treatment in Nigeria, p37-39, September 2014, [https://www.amnesty.org.uk/sites/default/files/p4334\\_nigeria\\_report\\_complete\\_web.pdf](https://www.amnesty.org.uk/sites/default/files/p4334_nigeria_report_complete_web.pdf), accessed on 21 July 2016



disposing of the bodies in mass graves around Maiduguri on or about March 14. AI alleged that on that day alone, the military and CJTF executed 622 persons following a Boko Harm attack upon Giwa Barracks in which the group freed more than 1,000 detainees, including women and children. Residents of Maiduguri told AI that soldiers rounded up, rearrested, and then executed the escaped detainees, who reportedly were unarmed. The military denied the allegations but stated it would investigate the AI report, a statement echoed by President Buhari's chief of staff. No information on the investigation was available at year's end.

'While press articles often contained contradictory and inaccurate information, multiple sources confirmed allegations of abuses. Some authorities publicly denied the claims, but the Buhari administration publicly stated that it would investigate and punish human rights violators.'<sup>20</sup>

6.2.3 The Amnesty International report, 'Welcome to hell fire' - Torture and other ill-treatment in Nigeria', of September 2014 stated:

'Those interviewed by Amnesty International had lived to share their account. Thousands of other detainees were not as fortunate and did not survive detention by the JTF and the military in north-east Nigeria. Many were extrajudicially executed or tortured to death. Countless others died from a combination of lack of medical care for injuries and diseases, starvation and/or inadequate food, overcrowding and other poor detention conditions. Over 950 detainees, including children, are known to have died in the first six months of 2013. A large proportion of these people are believed to have died in Giwa military barracks in Maiduguri and Sector Alpha/Presidential Lodge in Damaturu. At least a further 150 persons are believed to have died in military custody between January and March 2014 alone.'<sup>21</sup>

6.2.4 An Amnesty International report, 'Stars on their shoulders. Blood on their hands. War crimes committed by the Nigerian military', published in June 2015, stated:

'More than 7,000 people, mainly men and boys have died in military detention since March 2011, according to information collected by Amnesty International. These deaths were often not properly or officially recorded and almost never investigated.

'Based on witness testimonies and analysis of video and photographic evidence, as well as information contained in military reports, Amnesty International believes that the main causes of deaths in detention included thirst, starvation, suffocation, severe overcrowding that led to spread of

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<sup>20</sup> USSD, Country Reports on Human Rights Practices for 2015, Nigeria, section 1c, April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

<sup>21</sup> Amnesty International, 'Welcome to hell fire' – Torture and ill-treatment in Nigeria', p42, September 2014, [https://www.amnesty.org.uk/sites/default/files/p4334\\_nigeria\\_report\\_complete\\_web.pdf](https://www.amnesty.org.uk/sites/default/files/p4334_nigeria_report_complete_web.pdf), accessed on 18 February 2016

diseases, lack of medical attention, use of fumigation chemicals in unventilated cells, and torture.

'Torture and lack of medical assistance for injuries caused by torture is another major cause of death in military detention. Torture in detention is rampant, and many former detainees who were tortured in detention told Amnesty International that no medical assistance was provided for even life-threatening injuries caused by torture.'<sup>22</sup>

- 6.2.5 A 'Report of the United Nations High Commissioner for Human Rights [OHCHR] on violations and abuses committed by Boko Haram and the impact on human rights in the affected countries', dated 29 September 2015, stated:

'In Nigeria, OHCHR received confirmation that in areas affected by Boko Haram, young men were not only exposed to the risk of being targeted by Boko Haram, but also of being arbitrarily arrested and detained by security forces, based on suspicions of being Boko Haram members by the army, police, and civilian vigilante groups. A victim recounted how he was mistaken for a Boko Haram member and detained by the military in Yola, Adamawa state. He also reported concerns regarding ill-treatment and conditions in detention, leading to an average of five deaths per day in the cell where suspected Boko Haram detainees were held and reportedly regularly beaten. Witnesses told OHCHR that Boko Haram suspects were deprived of food and water and that some drank each other's urine. OHCHR also received information on allegations of arbitrary detention and cases of torture in Borno state.'<sup>23</sup>

- 6.2.6 Amnesty observed in its report of May 2016, based on 26 interviewees with eye witnesses, former inmates and human rights activists, and photographs and video footage about Giwa military barracks in Maiduguri, north-east Nigeria, that at least 149 people had died while in detention since January 2016, including children, although it was unable to confirm the exact causes of death. Detainees including women and children were held in extremely overcrowded, unsanitary conditions, with insufficient amounts of food and water. Amnesty estimated that by March 2016 up to 1,200 had been detained at the barracks, with recent mass arrests causing the overcrowding.<sup>24</sup>

- 6.2.7 Amnesty published a report on the Special Anti-Robbery Squad (SARS) released in September 2016. The report examined the use of torture at 'stations in Enugu and Anambra states, and the Federal Capital Territory

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<sup>22</sup> Amnesty International, 'Stars on their shoulders. Blood on their hands. War crimes committed by the Nigerian military', June 2015, Deaths in Custody p.58 -59, <http://www.amnestyusa.org/sites/default/files/report.compressed.pdf>, accessed on 11 February 2016

<sup>23</sup> 'Report of the United Nations High Commissioner for Human Rights on violations and abuses committed by Boko Haram and the impact on human rights in the affected countries', para 60, 29 September 2015, <http://www.refworld.org/docid/5639b2d84.html>, accessed on 18 February 2016

<sup>24</sup> Amnesty International, 'If you see it you will cry', Life and death in Giwa barracks, Executive summary, 11 May 2016, <https://www.amnesty.org/en/documents/afr44/3998/2016/en/>, accessed on 16 September 2016

(FCT) Abuja’, and was based, in part, on interviews with 65 people, of whom 44 ‘were victims of torture, as well as nine law enforcement agents, three lawyers and nine human rights defenders.’<sup>25</sup> The report observed that:

‘... (SARS), a special branch of the Nigeria police created to fight violent crime, is responsible for widespread torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) of detainees in their custody. Amnesty International’s research shows that detainees, both men and women, are subjected to various methods of torture and ill- treatment in order to extract information and “confessions”. Such methods include severe beating, hanging, starvation, shooting in the legs, mock executions and threats of execution.

‘... Amnesty International’s research found that the majority of the victims of torture in SARS custody are poor and unable to hire legal representatives. The Nigerian justice system has failed to both prevent and punish torture. A bill to criminalize torture, which was first introduced in Parliament in 2012, was returned unsigned by the President; a revised version will be resubmitted to the National Assembly by the end of 2016.

‘In December 2014, police authorities launched a human rights manual prohibiting the torture and other ill-treatment of detainees[...] Supported by international donors and civil society groups in Nigeria, the manual was adopted for use in all police training colleges as part of the police reform and to address concerns about police misconduct. However, in practice, SARS has failed to implement the recommendations within the manual.

‘A Complaint Response Unit (CRU) was set up by the Inspector General of Police (IGP) in November 2015 to address public complaints against the police. In the first and second quarters of 2016, the CRU reported that they had received 1,960 complaints, including 143 against officers from SARS. The Inspector General of Police (IGP) acknowledged the public concern against SARS officers on several occasions and made it clear that human rights violation by its officers would not be condoned.

‘In August 2015 the police authorities announced that in a bid to address complaints of human rights violations by SARS officers, it would introduce reforms by splitting the command into two units: Operation and Investigation respectively.

‘Positive developments as a result of the reforms are yet to be seen.’<sup>26</sup>

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<sup>25</sup> Amnesty International, Nigeria: ‘you have signed Your death warrant’ Torture and other ill treatment in the Special Anti-Robbery Squad (SARS), Methodology, p7, September 2016, [https://www.amnestyusa.org/sites/default/files/nigeria\\_sars\\_report.pdf](https://www.amnestyusa.org/sites/default/files/nigeria_sars_report.pdf), accessed on 10 November 2016

<sup>26</sup> Amnesty International, Nigeria: ‘you have signed Your death warrant’ Torture and other ill treatment in the Special Anti-Robbery Squad (SARS), Executive summary, p5, September 2016, [https://www.amnestyusa.org/sites/default/files/nigeria\\_sars\\_report.pdf](https://www.amnestyusa.org/sites/default/files/nigeria_sars_report.pdf), accessed on 10 November 2016

## 6.3 Women and children

6.3.1 The US State Department noted in its human rights report for 2015 that:

‘Authorities sometimes held female and male prisoners together, especially in rural areas. Prisons had no facilities to care for pregnant women or nursing mothers. Infants born to inmate mothers usually remained with the mother until weaned. Prison authorities often held juvenile suspects with adults... Although the law prohibits the imprisonment of children, minors - many of whom were born in prison - lived in the prisons. According to the NPS [National Prison Service] , in 2013 there were 69 infants in prison with their mothers, while 847 juvenile inmates were in juvenile detention centers.’<sup>27</sup>

6.3.2 A newsposts247 report, ‘Nigeria’s Famous Prisons’, dated 7 August 2015, stated that Kiri Kiri prison is the only prison complex in Nigeria with a separate women’s prison: ‘The mention of Kirikiri first reminds any Nigerian of one of the major prisons in the country, Kirikiri Maximum Security Prison. It is located in the busy Apapa area of Lagos State... Also there is an exclusive female prison for only female inmates in Kirikiri known as Kirikiri Female Prison which was established in 1963. It is the only female prison in Nigeria.’<sup>28</sup>

6.3.3 Regarding the physical and sexual abuse of women in police and military custody, the Amnesty International report, “‘Welcome to hell fire” - Torture and other ill-treatment in Nigeria’, stated:

‘Rape and sexual violence: Amnesty International has received consistent reports of women being raped or sexually abused by the police. While such violations take place even in public locations, they are most common during transfer of women to police stations, during their detention or in the police station when women visit male detainees in police custody. Rape and other forms of sexual violence, including inserting bottles and other objects into a woman’s vagina, are also used by the police to extract confessions and other information.’<sup>29</sup>

6.3.4 The same report also observed:

‘Amnesty International has received credible reports of children - under the age of 18 – being detained and tortured or otherwise ill-treated at police stations. Nigeria has three juvenile offender institutions and several state remand homes, but in most police stations and prisons, children are held in cells together with adults. In 2010, the UN Committee on the Rights of the Child also noted, “with utmost concern...reports that torture and other forms

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<sup>27</sup> USSD, Country Reports on Human Rights Practices for 2015, Nigeria, section 1c, April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

<sup>28</sup> newsposts247, ‘Nigeria’s Famous Prisons’, 7 August 2015, <http://newsposts247.com/nigerias-famous-prisons/>, accessed on 19 November 2015

<sup>29</sup> Amnesty International, “‘Welcome to hell fire” – Torture and ill-treatment in Nigeria’, p9, September 2014, [https://www.amnesty.org.uk/sites/default/files/p4334\\_nigeria\\_report\\_complete\\_web.pdf](https://www.amnesty.org.uk/sites/default/files/p4334_nigeria_report_complete_web.pdf), accessed on 18 February 2016

of ill-treatment are widespread in police custody, and particularly at reports that children as young as 11 years of age have been held in custody in inhuman conditions in the Criminal Investigation Department (CID).”<sup>30</sup>

#### 6.4 UK-Nigeria prisoner transfer agreement

6.4.1 A ‘nigerian watch’ article, ‘Britain to Fund Construction of Nigerian Prisons’, dated 9 October 2012, stated: ‘Plans by Nigeria and Britain to proceed with a prisoner exchange programme have moved a step further after London agreed to provide the funding for the construction of new prisons needed to make the project succeed.’<sup>31</sup>

6.4.2 A ‘nigerian express’ article, ‘Nigeria and UK sign prisoner exchange agreement. James Ibori might complete prison term in Nigeria’, dated 10 January 2014, stated:

‘On Thursday, Nigeria and the United Kingdom signed a Prisoners Transfer Agreement (PTA) for the exchange of high-profile prisoners between both countries. The agreement will allow for the transfer of about 521 Nigerians who are currently serving jail terms in the UK to complete their jail terms in Nigeria...The British government is also to give the Federal Government £1m (about N280m) for a comprehensive reform of Nigerian Prisons. The agreement was signed by the Ministers of Justice of both countries in Abuja...

‘The UK Justice Minister, Jermey [sic] Wright, said, “This is a good agreement for both Nigeria and the United Kingdom and I think it gives us the opportunity to strengthen our partnership and our friendship. It is also an opportunity to ensure that those prisoners who come from either country will serve their own sentences in their own countries and that is better for their rehabilitation. It gives us the opportunity to ensure the security of the rest of our population by making the necessary arrangements for their release.” He also explained that only some of the 521 Nigerians currently in UK prisons would be eligible for the prisoner transfer program, since only prisoners that are serving more than 12 months would be eligible. Prisoners in both countries wont have the choice of participating or not but countries do will have an opportunity to discuss whether a transfer should be made.’<sup>32</sup>

6.4.3 An e-mail, dated 19 November 2015, from the British High Commission in Abuja (see Annex A), stated that Nigerian prisoners transferred from the UK to Nigeria would be taken to Kiri Kiri Prison:

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<sup>30</sup> Amnesty International, “Welcome to hell fire” – Torture and ill-treatment in Nigeria’, p34-35, September 2014, [https://www.amnesty.org.uk/sites/default/files/p4334\\_nigeria\\_report\\_complete\\_web.pdf](https://www.amnesty.org.uk/sites/default/files/p4334_nigeria_report_complete_web.pdf), accessed on 18 February 2016

<sup>31</sup> Nigerian watch, ‘Britain to Fund Construction of Nigerian Prisons’, 9 October 2012, <http://www.nigerianwatch.com/news/680-britain-to-fund-construction-of-nigerian-prisons>, accessed on 30 July 2016

<sup>32</sup> ‘Nigerian express’, ‘Nigeria and UK sign prisoner exchange agreement. James Ibori might complete prison term in Nigeria’, 10 January 2014, <http://ngex.com/news/public/newsinfo.php?nid=9448#>, accessed on 31 July 2016

'The United Kingdom has a compulsory prisoner transfer agreement (CPTA) in place with the government of Nigeria. The UK Government has worked with Nigeria to contribute to improving prison conditions in the country. The Ministry of Justice, Home Office and Foreign Commonwealth Office have also worked closely with Nigerian officials to identify designated prison facilities, appropriate for the transfer of prisoners from the UK. As such any prisoners who are transferred are now sent to Kiri Kiri prison which is the designated prison for CPTA returns. The prison can accommodate up to a maximum of 40 transfers from the UK and the government are satisfied this meets UN prison standards appropriate for the transfer of prisoners.'<sup>33</sup>

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## 7. Government oversight and independent monitoring

### 7.1.1 Amnesty International observed in its report on the Special Anti-Robbery Squad that

'Nigeria has taken other positive steps since the Special Rapporteur's visit and the reviews of its human rights record under the Universal Periodic Review in 2009 and 2013<sup>24</sup> towards the prevention of torture. Measures have included the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the establishment of the National Committee against Torture (NCAT). The NCAT has organized a number of public tribunals (an event which allows victims to state their case in an open forum) on police abuse, in collaboration with the National Human Rights Commission (NHRC) and the Network on Police Reform in Nigeria (NOPRIN). The NCAT is mandated to visit places of detention and to investigate complaints of torture. Its 19-member committee is drawn from the federal Ministry of Justice, lawyers, and civil society organizations.

'The National Human Rights Commission Act (as amended in 2010) authorizes the NHRC to visit any detention facility in Nigeria, to investigate any case of human rights violation in the country, to summon persons, and to award compensation and enforce its decisions. The NHRC can also refer cases for prosecution to the Attorney General...

'In May 2015 the Administration of Criminal Justice Act (ACJA) was passed into law. Although the ACJA addressed some concerns about the ill-treatment of detainees during detention and during the process of interrogation by the police, it is yet to become effective in several states pending approval by the relevant House of Assembly.'<sup>34</sup>

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<sup>33</sup> British High Commission (BHC), Abuja, Nigeria, e-mail dated 19 November 2015 from a BHC official to the Country Policy and Information Team, Home Office, about the prisoner transfer agreement between the UK and Nigeria (see Annex A)

<sup>34</sup> Amnesty International, Nigeria: 'you have signed Your death warrant' Torture and other ill treatment in the Special Anti-Robbery Squad (SARS), p10, September 2016, [https://www.amnestyusa.org/sites/default/files/nigeria\\_sars\\_report.pdf](https://www.amnestyusa.org/sites/default/files/nigeria_sars_report.pdf), accessed on 10 November 2016

7.1.2 The United States State Department ‘Country Reports on Human Rights Practices for 2015’, published in April 2016, stated:

‘The country does not have an ombudsman to serve on behalf of convicted prisoners and detainees. While the chief justice of each state is to assume that role and visit prisons in his or her official capacity, such visits were infrequent. As a result, there was no advocate for prisoners on issues such as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail, or recordkeeping procedures to prevent prisoners from serving beyond the maximum sentence for the charged offense. The [Administration of Criminal Justice Act] ACJA [passed during 2015] provides that the chief magistrate, or any magistrate designated by the chief justice, shall conduct monthly inspections of police stations and other places of detention within the magistrate’s jurisdiction and may inspect records of arrests, direct the arraignment of suspects, and grant bail if previously refused but appropriate.

‘The [National Human Rights Commission] NHRC conducts an annual prison audit. While the NHRC reported a willingness and ability to investigate credible allegations of inhuman conditions, the last audit report it publicly released was in 2012. The Ministry of Justice reportedly monitored prisons under the Federal Government Prison Decongestion Program. Prisoner complaints centered on lack of access to court proceedings, since in many cases inmates lacked transportation to attend a court hearing.

‘...There was limited monitoring of prisons by independent nongovernmental observers. The International Committee of the Red Cross continued to have access to police detention facilities. After the change in administration, it received access to NPS facilities. As of August, it was also able to visit some military detention facilities.

‘... Individual attorneys general and prison administrations worked to improve local facilities and processes. Some local administrations attempted to collect donations from religious organizations, NGOs, and the National Youth Service Corps to benefit inmates. Through the Libraries in Nigerian Prisons project, Citizens United for the Rehabilitation of Errants continued to improve access to reading and education materials for inmates.’<sup>35</sup>

7.1.3 The DFAT report of February 2015 observed that:

‘The government has taken steps to improve detention conditions. The NHRC monitors prisons and provides an annual audit on human rights concerns. Credible local sources note the government has demonstrated a willingness to investigate allegations however very few complaints are received for investigation. The Ministry of Justice monitors prisons under the federal government’s Prison Decongestion Program and credible sources

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<sup>35</sup> USSD, Country Reports on Human Rights Practices for 2015, Nigeria, section 1c, April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed on 15 September 2016

report that prison authorities allow complaints to be made by detainees without censorship.<sup>36</sup>

7.1.4 An International Committee of the Red Cross (ICRC) operational update, dated 5 February 2014, stated:

‘Since February 2013, in agreement with the Nigerian authorities, the ICRC has been visiting detainees in 15 police stations and six prisons all over the country. Repeated visits, the aim of which is to monitor the treatment and living conditions of detainees, have taken place in accordance with the ICRC’s standard working procedures, which include discussions with the detaining authorities, access to all the premises and private talks with the detainees.

‘In January 2014, for the first time ever, ICRC staff visited detainees held under the responsibility of the Nigerian Army in the capital of Borno state. During the previous months, the ICRC had negotiated access to the detainees with the Nigerian authorities.’<sup>37</sup>

7.1.5 The DFAT report of February 2015 observed that: ‘No external organisations have been able to access military detention facilities in the northeast.’<sup>38</sup>

7.1.6 The ICRC annual report for 2015:

‘Through discussions with various arresting/detaining authorities, the ICRC sought access to all detainees within its purview, particularly those held in connection with the conflict. Over 13,000 people held by the Nigerian Prisons Service (NPS), the police and the army received visits to monitor their treatment and living conditions, which were conducted according to standard ICRC procedures.

‘Around 1,500 detainees were newly registered and followed up individually. After these visits, the authorities concerned received confidential feedback from the ICRC, including recommendations for improvement where necessary, to support them in their efforts to ensure detainees’ well-being. Over 2,100 detainees had better access to potable water after boreholes were drilled and solar pumps were installed, while some 3,700 had more sanitary living conditions following delousing campaigns and improvements to sewage systems. Furthermore, over 10,200 detainees eased their situation using ICRC-donated hygiene/cleaning supplies, mattresses and blankets. Hundreds of severely malnourished detainees received supplementary food to alleviate their condition.’<sup>39</sup>

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<sup>36</sup> Australian Government, Department of Foreign Affairs and Trade, Country Report, Nigeria, February 2015, p17, copy available on request, accessed on 15 September 2016

<sup>37</sup> International Committee of the Red Cross (ICRC) operational update, ‘Nigeria: Tens of thousands suffer from armed conflict and other violence’, 5 February 2014, <https://www.icrc.org/eng/resources/documents/update/2014/02-05-nigeria-displacement.htm>, accessed on 30 July 2015

<sup>38</sup> Australian Government, Department of Foreign Affairs and Trade, Country Report, Nigeria, February 2015, p17, copy available on request, accessed on 15 September 2016

<sup>39</sup> International Committee of the Red Cross, Annual Report, Nigeria, undated, p191, <https://app.icrc.org/files/2015-annual-report/>, accessed on 16 September 2016



## 8. Death penalty

### 8.1 Offences punishable by the death penalty

#### 8.1.1 The DFAT report of February 2015 noted:

‘Capital punishment applies to armed robbery, murder, rape and federal terrorism offences in each state in accordance with the federal Constitution. The Rivers State in the south has extended capital punishment to abduction and kidnapping. The death penalty applies under Sharia law in twelve northern states for adultery, rape, incest, apostasy and homosexual sodomy.

‘A de facto moratorium on the death penalty was enforced across Nigeria under civil law in 2006. The moratorium was respected between 2006 and 2013. It was broken in June 2013 when four detainees were executed for armed robbery and murder. The evidentiary requirements for the relevant Sharia offenses are considered by credible local and international sources to be extremely demanding and, as a result, are rarely applied.. ‘The death penalty cannot be applied to individuals under 18 years of age under federal law. It can be applied to juveniles considered to have reached puberty in the northern states applying Sharia law and to individuals 17 years or older in the majority of southern states under state civil law. Pregnant women are not excluded from the death penalty under federal or state civil laws or under state Sharia law.’<sup>40</sup> p18

#### 8.1.2 The Nigeria section of the Death Penalty Worldwide website, updated on 19 June 2014, provided information about crimes that are punishable by the death penalty:

‘Aggravated Murder.

‘In states applying Shariah law, intentional killing during robbery or after secluding a person to rob him carries the mandatory death penalty. The secular law (of Southern states) does not distinguish between aggravated and simple murder.

‘Murder.

‘In states applying Shariah law, murder carries the retributive sentence of death. Murder is intentional killing or killing as the result of an action likely to cause death. A person who induces a person to commit a murder is liable for that agent’s offense under Shariah law.

‘Under secular law (of Southern states), murder is punished by death - for instance, under the Criminal Law of Lagos State.

‘Under the Armed Forces Act of 1993, murder is punishable by death after conviction by court martial.

‘Other Offenses Resulting in Death.

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<sup>40</sup> Australian Government, Department of Foreign Affairs and Trade, Country Report, Nigeria, February 2015, p18, copy available on request, accessed on 19 September 2016

'In states applying Shariah law, robbery resulting in death carries the mandatory death penalty. Assisting the suicide of a person legally unable to consent is punished by death. Perjury or fabrication resulting in the execution of an innocent defendant carries the retributive sentence of death. Committing any act of witchcraft or juju that results in death carries the death penalty, and causing the death of an accused witch through trial by ordeal carries the retributive death penalty.

'Under the secular law (of Southern states) killing someone unintentionally while committing another unlawful act is deemed murder and carries the death penalty even in absence of a showing of intent or recklessness with regard to risk to life. Presiding over a trial by ordeal which results in death carries the mandatory death penalty.

'Terrorism-Related Offenses Resulting in Death.

'Support or solicitation for terrorist acts that result in death carries the death penalty.'<sup>41</sup>

For details about Nigeria's criminal code, see: [Nigerian Criminal Code Act](#)

### 8.1.3 Amnesty observed that:

'On 18 February [2015], the Lagos State Attorney-General and Commissioner for Justice announced the decision of the government to retain the death penalty in the criminal laws of Lagos state, after considering the outcome of a survey which indicated that the majority of the respondents surveyed supported the use of the death penalty. The survey questioned 2,000 randomly chosen members of the public and 100 people with close contact with the criminal justice process and systems... A number of states in Nigeria have turned to the death penalty in response to the increase in the incidents of kidnappings in the country. In September [2015], Cross River state passed into law a bill prescribing the death penalty for kidnapping. In October, the Ebonyi State Governor, David Umahi, announced that he was prepared to sign the death warrant of any kidnapper convicted in the state. In November, a bill prescribing the death penalty for kidnapping in Ekiti state progressed through the Ekiti State House of Assembly.'<sup>42</sup>

## 8.2 Implementation of the death penalty

### 8.2.1 Death Penalty Worldwide stated that 4 people were executed in Nigeria in 2013 by the Nigerian authorities but there were no executions in 2014 or 2015.<sup>43</sup> The Amnesty International report, 'Death Sentences and Executions 2015', published in April 2016, stated:

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<sup>41</sup> Death Penalty Worldwide, Nigeria section, information updated on 19 June 2014, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Nigeria>, accessed on 16 June 2016

<sup>42</sup> Amnesty International, 'Death Sentences and Executions 2015', p61-62, April 2016, [https://www.amnestyusa.org/sites/default/files/act\\_5034872016\\_en\\_2103\\_web.pdf](https://www.amnestyusa.org/sites/default/files/act_5034872016_en_2103_web.pdf), accessed on 19 September 2016

<sup>43</sup> Death Penalty Worldwide, Nigeria section, information updated on 7 January 2016, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Nigeria>, accessed on 15 January 2016

'Nigeria did not carry out executions in 2015. The last executions took place in 2013. According to information received from the Nigerian Prisons Service, 171 people were sentenced to death in 2015. This was a 74% drop on the 659 death sentences recorded in 2014. The Nigerian Prisons Service also reported that 26 pardons were granted; 41 death row prisoners were exonerated; and 1,677 people were on death row, including five foreign nationals. During the year a total of 121 death sentences were commuted.'

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<sup>44</sup> Amnesty International, 'Death Sentences and Executions 2015', p61, April 2016, [https://www.amnestyusa.org/sites/default/files/act\\_5034872016\\_en\\_2103\\_web.pdf](https://www.amnestyusa.org/sites/default/files/act_5034872016_en_2103_web.pdf), accessed on 19 September 2016

# Version control and contacts

## Contacts

If you have any questions about the note and your line manager or senior caseworker cannot help you or you think that the note has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this note (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the note then you can email [the Guidance, Rules and Forms Team](#).

## Clearance

Below is information on when this version of the guidance was cleared:

- version **1.0**
- valid from **2 November 2016**

## Changes from last version of this note

First version.

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