



ГЕНЕРАЛЬНАЯ АССАМБЛЕЯ

Distr.
GENERAL

A/HRC/7/3/Add.4
22 November 2007

RUSSIAN
Original: ENGLISH

Совет по правам человека
Седьмая сессия
Пункт 3 предварительной повестки дня

**ПООЩЕНИЕ И ЗАЩИТА ВСЕХ ПРАВ ЧЕЛОВЕКА, ГРАЖДАНСКИХ,
ПОЛИТИЧЕСКИХ, ЭКОНОМИЧЕСКИХ, СОЦИАЛЬНЫХ И
КУЛЬТУРНЫХ ПРАВ, ВКЛЮЧАЯ ПРАВО НА РАЗВИТИЕ**

**Доклад Специального докладчика по вопросу о пытках и других видах жестокого,
бесчеловечного или унижающего достоинство обращения и наказания
г-на Манфреда Новака**

Миссия в Нигерию*
(4-10 марта 2007 года)

* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад содержится в приложении к резюме и распространяется только на языке представления. Добавления распространяются в том виде, в каком они были получены.

Резюме

Специальный докладчик по вопросу о пытках и других видах жестокого, бесчеловечного или унижающего достоинство обращения и наказания посетил Нигерию с 4 по 10 марта 2007 года. Данное посещение включало в себя поездки в Абуджу, Лагос, Порт-Харкурт и Кадуну. Он выразил свою признательность правительству за оказанное ему содействие.

Специальный докладчик приветствует приверженность Нигерии делу содействия уважения прав человека, о чем, в частности, свидетельствует ее успешное сотрудничество с международными правозащитными механизмами и организациями. Он понимает проблемы, с которыми сталкивается это государство вследствие большой численности и разнообразия групп населения, включая этнолингвистические и религиозные группы, плюрализма правовых систем, характера федеральной структуры, высокого уровня преступности, повсеместной бедности (несмотря на потенциальные огромные поступления от продажи нефти) и конфликта в дельте реки Нигер.

На основе анализа правовой системы, посещений мест содержания под стражей, собеседований с задержанными, судебно-медицинских свидетельств и бесед с должностными лицами правительства, юристами и представителями НПО Специальный докладчик пришел к выводу о том, что пытки и жестокое обращение являются широко распространенной практикой в период содержания под стражей в полицейских участках и приобрели сугубо системный характер в структурных уголовных расследованиях. В эмоциональном изложении очевидца обстоятельства, относящиеся к случаям смерти двух лиц, с которыми Специальный докладчик лично провел собеседования, представляют собой примеры жестоких пыток, исчезновений и внесудебных казней и наглядно подтверждают неспособность нынешней системы к проведению эффективного расследования утверждений о нарушениях, защите жертв грубых нарушений прав человека и привлечению к ответственности должностных лиц правоохранительных органов Нигерии.

Условия содержания под стражей в камерах полицейских участков, которые посетил Специальный докладчик, были ужасающими. Все тюрьмы, которые посетил Специальный докладчик, были переполнены, при том что число заключенных обычно вдвое или втрое превышало реальную вместимость пенитенциарных учреждений. Значительное большинство заключенных содержится под стражей в ожидании суда или содержится под стражей без предъявления каких-либо обвинений в течение продолжительного периода времени, иногда в течение десяти лет. Вместе с тем следует отметить, что заключенные женщины содержатся в гораздо более лучших условиях.

Специальный докладчик отмечает, что в Нигерии по-прежнему на законных основаниях применяются телесные наказания, например нанесение побоев палкой, включая применение в северных штатах наказаний в соответствии с уголовными нормами шариата (т.е. ампутация конечностей, порка и забивание камнями).

Он напоминает, что любая форма телесного наказания противоречит запрещению пыток и других видов жестокого, бесчеловечного или унижающего достоинство обращения и наказания. В соответствии с международным правом они не относятся к законным видам наказания и нарушают международные договоры в области прав человека, участником которых является Нигерия.

Отмечая, что высшая мера наказания по-прежнему предусматривается законами Нигерии, Специальный докладчик с признательностью отмечает политику президента Обасанджо по непроведению казней. Вместе с тем он выражает беспокойство в связи с тем, что отдельные лица по-прежнему приговариваются к смертной казни, что способствует увеличению числа лиц, ожидающих в бесчеловечных условиях исполнения смертного приговора в течение многих лет.

Специальный докладчик приветствовал принятие ряда государственных законов, запрещающих дискриминацию в отношении женщин, связанную с такими серьезными проблемами, как проведение калечащих операций на женских половых органах и вступление в ранние браки. Однако, несмотря на соответствующее законодательство, он по-прежнему обеспокоен существованием этих видов практики и общественной толерантностью к ним, а также отсутствием эффективных механизмов по обеспечению применения существующих запретительных норм.

Эти выводы не являются новыми, поскольку многие авторитетные правозащитные организации, а также механизмы Организации Объединенных Наций по вопросам прав человека документально зафиксировали факты пыток и пришли к выводу о том, что пытки являются в этой стране широко распространенной практикой и что условия содержания под стражей являются неприемлемыми. Нигерийцы сами обстоятельно проанализировали характер и масштабы этих проблем. Так, в августе 2005 года и вновь на состоявшейся 21 мая 2007 года встрече со Специальным докладчиком президент Обасанджо констатировал наличие серьезных проблем, связанных с применением пыток в его стране.

В этой связи Специальный докладчик рекомендует правительству принять ряд мер, с тем чтобы выполнить свое обязательство по предупреждению и пресечению актов пыток и других видов жестокого обращения.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, MANFRED NOWAK, ON HIS MISSION TO NIGERIA (4 TO 10 MARCH 2007)

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 9	6
I. LEGAL FRAMEWORK	10 - 35	8
A. International level	10 - 12	8
B. Regional level	13 - 14	8
C. Domestic level	15 - 35	8
1. Constitutional protection of human rights, including the prohibition of torture and other cruel, inhuman or degrading treatment or punishment	15 - 17	8
2. Provisions of the Criminal Code and Penal Code criminalizing torture	18 - 22	9
3. Safeguards against torture and ill-treatment during arrest and detention	23 - 28	10
4. Complaints and investigation of acts of torture	29 - 33	11
5. Compensation	34	12
6. Prevention	35	12
II. THE SITUATION OF TORTURE AND ILL-TREATMENT	36 - 49	12
III. CONDITIONS OF DETENTION	50 - 55	16
IV. CORPORAL PUNISHMENT, SHARIA PENAL CODE PUNISHMENTS, AND CAPITAL PUNISHMENT	56 - 61	17
A. Corporal punishment	56 - 58	17
B. Sharia penal codes	59 - 60	17
C. Capital punishment.....	61	18
V. FEMALE GENITAL MUTILATION	62	18

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
VI. CONCLUSIONS AND RECOMMENDATIONS	63 - 76	18
A. Conclusions	63 - 74	18
B. Recommendations	75 - 76	21
Appendices		
Appendix I: Places of detention - individual cases		
Introduction	1 - 2	25
I. STATE SECURITY SERVICES	3	25
II. KUJE MEDIUM SECURITY PRISON, KUJE, FEDERAL CAPITAL TERRITORY	4 - 20	25
III. NIGERIA POLICE FORCE CRIMINAL INVESTIGATION DEPARTMENT, GARKI, AREA 10, ABUJA, FCT	21 - 29	29
IV. NIGERIA POLICE FORCE, STATE CRIMINAL INVESTIGATION DEPARTMENT, PANTI, YABA, LAGOS, LAGOS STATE	30 - 52	31
V. PORT HARCOURT PRISON, PORT HARCOURT, RIVERS STATE	53 - 85	34
VI. NIGERIA POLICE FORCE, STATE CRIMINAL INVESTIGATION DEPARTMENT AND CENTRAL POLICE STATION, PORT HARCOURT, RIVERS STATE .	86 - 99	38
VII. NIGERIA POLICE FORCE, CRIMINAL INVESTIGATION DEPARTMENT, GWAGWADE, KADUNA, KADUNA STATE	100 - 111	40
VIII. KADUNA MEDIUM SECURITY PRISON, KADUNA, KADUNA STATE	112 - 123	42

Appendix II: Letter from the Nigerian Government

Introduction

1. The Special Rapporteur was invited by the Government of Nigeria to undertake a visit to the country from 4 to 10 March 2007. The visit included stops in Abuja, Lagos, Port Harcourt and Kaduna.
2. The Special Rapporteur held meetings with the President, the Minister of State for Foreign Affairs, the Minister of Internal Affairs, the Controller General of Prisons, the Inspector General of Police, the Attorney General and Minister of Justice, the Solicitor General, the Chairman of the Economic and Financial Crimes Commission, the Executive Secretary of the National Human Rights Commission, as well as with State Police Commissioners and Prison Controllers. On the last day of his visit he was also received by representatives of the State Security Services.
3. The Special Rapporteur met with non-governmental organizations (NGOs) in Abuja, Lagos, Port Harcourt and Kaduna and with representatives of the corporate sector. In addition, the Special Rapporteur held meetings with representatives of the International Committee of the Red Cross (ICRC), the United Nations country team, including the United Nations Development Programme (UNDP), United Nations Children's Fund (UNICEF), United Nations Development Fund for Women (UNIFEM), United Nations Population Fund (UNFPA), United Nations Office on Drugs and Crime (UNODC), United Nations Educational, Scientific and Cultural Organization (UNESCO) and World Health Organization (WHO), and the diplomatic corps in Abuja.
4. The purpose of the mission was twofold: to assess the situation of torture and ill-treatment in the country and to offer assistance to the Government in its efforts to improve the administration of justice, including the police and prison sector. The Special Rapporteur expresses his appreciation to the Government for the cooperation it extended to him during the visit. A primary focus of the visit was the inspection of detention facilities in the country and, in this regard, he expresses his appreciation to the Government for the respect of the terms of reference for the visit. In particular, he wishes to thank the Inspector General of Police (IGP) and the Controller General of Prisons (CGP) for opening up the prisons and police detention facilities to unannounced visits and permitting the Special Rapporteur to conduct private interviews with detainees. In Abuja, he visited Kuje Prison and the Force Criminal Investigation Department, Garki. In Lagos, he visited the Panti Criminal Investigation Department, Yaba. In Rivers State, visits were made to Port Harcourt Prison, the State Police Headquarters, the State Criminal Investigation Department and the Central Police Department. In Kaduna, he visited the Central Prison, the State Police Headquarters and the State Criminal Investigation Department and its Annex.
5. The Special Rapporteur regrets that the State Security Service denied him access to their detention facilities on each of the three occasions he attempted to visit.¹ This constitutes a serious breach of the terms of reference agreed upon by the Government. Since he received credible allegations of torture by this intelligence agency, the denial of his right to assess for himself the allegations by inspecting unannounced the facilities and interviewing detainees in private leads him to strongly suspect that the authorities wished to conceal evidence.

¹ For a description of the incidents, see appendix I, below.

6. On 9 July 2007, a preliminary version of this report was sent to the Government. On 14 September the Nigerian Government provided comments, contained in appendix II of the present report.

7. The Special Rapporteur wishes to acknowledge with appreciation the excellent support provided by the United Nations Resident Coordinator, Mr. Alberic Kacou, and his staff in the United Nations country team; the Office of the High Commissioner for Human Rights (OHCHR); Dr. Duarte Nuno Vieira, Director of the National Institute of Forensic Medicine, Portugal; and Mr. Roland Schmidt and Ms. Isabelle Tschan, of the Ludwig Boltzmann Institute of Human Rights.

Context and challenges in the promotion and protection of human rights

8. The Special Rapporteur welcomes Nigeria's commitment to promoting respect for human rights, as demonstrated by, among other things, its democratic principles, the existence of a vibrant media, dedicated civil society organizations, membership of the Human Rights Council, and its record of cooperation with international human rights mechanisms and organizations. He appreciates the challenges the State faces given the sheer size and diversity of the population, including ethno-linguistic and religious groups, the plurality of legal systems, the nature of the federal structure, the high level of crime, widespread poverty and the conflict in the Niger Delta.

Niger Delta conflict

9. The increasing violence in the Niger Delta, with its roots in the Federal Government's decades-long neglect and marginalization of people in the region, as well as the desperate poverty they face - despite the enormous oil revenues emanating from there - impacts upon the practice of torture and ill-treatment. The rise of serious violent crime and attacks by vigilante and criminal gangs against the local population and the oil companies operating there, and the resultant heavy response from security forces and police paid by oil companies,² invite allegations of torture and ill-treatment.

² Oil companies in Nigeria rely upon Nigerian security forces to provide security for their business interests in the country. Under the Nigeria Police Act, which provides for the appointment of "supernumerary police", these officers "shall be a member of the Force for all purposes" and are subject to the Act's provisions on discipline. They provide payments to officers assigned for protection, which amount to premiums above their regular monthly salaries, as was affirmed to the Special Rapporteur by Shell Group representatives in Nigeria. See, for example, Human Rights Watch, *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities*, 1999; and International Crisis Group, *The Swamps of Insurgency: Nigeria's Delta Unrest*, Africa Report No. 115, August 2006.

I. LEGAL FRAMEWORK

A. International level

10. Nigeria is party to the major United Nations human rights treaties prohibiting torture and ill-treatment: the International Covenant on Civil and Political Rights (ICCPR); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT); the Convention on the Rights of the Child (CRC); and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

11. Nigeria is party to the Geneva Conventions of 1949 and to the Additional Protocols I and II, and has ratified the Rome Statute of the International Criminal Court.

12. Nigeria has not acceded to the first Optional Protocol to ICCPR and has therefore not recognized the competence of the Human Rights Committee to consider complaints by individuals regarding violations of the Covenant. Neither has it acceded to the Second Optional Protocol aiming at the abolition of the death penalty. Further, Nigeria has not recognized the competence of the Committee against Torture to receive communications from individuals under article 22 of CAT and has not signed the Optional Protocol on the Convention against Torture (OPCAT).

B. Regional level

13. Relevant regional human rights instruments ratified by Nigeria include: the African Charter on Human and Peoples' Rights (ACHPR) and its Protocols on the Rights of Women in Africa and the establishment of an African Court on Human and Peoples' Rights; and the African Charter on the Rights and Welfare of the Child.

14. As a member of the African Union, Nigeria is encouraged to abide by the Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines) adopted by the African Commission on Human and Peoples' Rights in 2002.

C. Domestic level

1. Constitutional protection of human rights, including the prohibition of torture and other cruel, inhuman or degrading treatment or punishment

15. Chapter IV of the Constitution, entitled Fundamental Rights, provides for, inter alia, rights to life, dignity, personal liberty, a fair hearing, private and family life, freedom of thought, conscience and religion, freedom of expression and the press, peaceful assembly and association, freedom of movement and freedom from discrimination.

16. The prohibition of torture and inhuman or degrading treatment is provided in section 34 (1) (a): no person shall be subject to torture or to inhuman or degrading treatment.

17. According to section 12 (1) of the Constitution, international human rights treaties shall only be applicable if they are enacted into domestic law by the National Assembly.

2. Provisions of the Criminal Code and Penal Code criminalizing torture

18. Nigeria's criminal law is primarily based on two legal texts: the Penal Code, applicable in the mainly Muslim 12 northern states; and the Criminal Code, applicable in the remaining 24 southern states of the country.

19. The 1990 Criminal Code does not contain any provision explicitly prohibiting torture with the requirements laid down in article 1 of CAT (i.e. the requirements regarding the role of a public official and the intentional infliction of severe pain or suffering for a specific purpose, such as obtaining a confession, intimidation, or punishment), or any provision for adequate sanctions, as required by article 4 of CAT. However Part 5, which deals with offences against the person, contains a number of provisions criminalizing acts which may fall within the scope of the Convention, such as various categories of assault (chaps. 25 and 29), homicide (chap. 27), offences endangering life (chap. 28), and assaults on females (chap. 30). Section 298 criminalizes the excessive use of force.

20. Penalties potentially range from: imprisonment for 1 year for ordinary assault to 14 years for assault with intent to have unlawful carnal knowledge; 7 years to life for grievous bodily harm; life imprisonment for manslaughter; death penalty for murder; and life imprisonment, with or without caning, for rape.

21. Under the Penal Code applicable in the northern mostly Muslim states which have introduced criminal law based on sharia to the jurisdiction of sharia courts and courts of appeal,³ acts amounting to torture may constitute offences such as infliction of injury, homicide and rape. Under sharia, the perpetrator of homicide and injury can only be punished if the victim or relatives of a victim seek punishment. If committed intentionally, the punishment is retaliation: punishment mirroring the injury inflicted. Blood money can be paid to the victim or the relatives of a victim in lieu of retaliation.

22. The Police Act and Police Regulations provide for internal disciplinary measures. Section 341 of the Police Act provides: "In the individual exercise of his powers as a police officer, every police officer shall be personally liable for any misuse of his powers, or for any act done in excess of his authority." The First Schedule of the Police Act lists several disciplinary offences which are subject to internal disciplinary sanctions, including unlawful or unnecessary exercise of authority, i.e. if an officer uses any unnecessary violence on any prisoner or other persons with whom he may be brought into contact in the execution of his duty, or is uncivil to a

³ Twelve northern states: Zamfara State, Kano, Katsina, Niger, Bauchi, Kaduna, Sokoto, Borno, Gombe, Kebbi, Jigawa and Yobe. Section 4 of the Constitution specifies that the legislative power of the Government is divided between the federal and state governments. Section 4 (7) gives state houses of assembly the power to "make laws for the peace, order and good government of the State". Section 6 empowers states to establish courts with jurisdiction at first instance or on appeal on matters. Advocates of the implementation of sharia argue that sharia courts have jurisdiction to try criminal cases, because although the Constitution mentions sharia courts with regard to civil proceedings and Islamic personal law, it is silent regarding criminal law jurisdiction; criminal law is not on the Federal Exclusive List in the Constitution, and the states have residual powers to legislate in this sphere.

member of the public (q) (ii). Punishments include dismissal, reduction in rank, withholding or deferment of salary rise, a reprimand, a fine, or confinement to barracks for up to 14 days.

3. Safeguards against torture and ill-treatment during arrest and detention

23. In Nigeria, police functions to arrest, detain and investigate suspects for offences vest in a myriad of law enforcement agencies, including the Nigeria Police Force, the military, the State Security Service, the Economic and Financial Crimes Commission, the National Drug Law Enforcement Agency, the Federal Road Safety Commission, and the Nigerian Security and Civil Defence Corps.⁴ Nevertheless, in carrying out these functions, they are all governed by international, constitutional and domestic law.

24. The Constitution contains a number of safeguards for suspects: section 35 (2) allows a detainee or arrested person to remain silent until consultation with a legal practitioner and section 35 (3) guarantees the right to be informed about the facts and grounds of the arrest or detention. Section 35 (4) includes time limits and safeguards regarding imprisonment: a person who is arrested or detained shall be brought before a court within one or two days. Further, if a person is not tried within a period of two or three months he shall be released either unconditionally or upon such conditions as are necessary to ensure that he appears at trial at a later stage (sects. 35 (4) (a-b)).

25. According to section 35 (1) (f), “a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence”. Section 36 contains procedural rights, including the presumption of innocence (sect. 36 (5)) and the right to a fair hearing within reasonable time before an independent and impartial tribunal in case of a charge of criminal offence (sect. 36 (1)).

26. There are a number of provisions in the Criminal Code (CC) as well as in the Criminal Procedure Code (CPC), which potentially safeguard the integrity of an individual arrested or detained: a person arrested shall not be exposed to unnecessary restraint, including handcuffing, unless there is a judicial order, a reasonable apprehension of violence, an attempt to escape, or the consideration of the restraint as necessary for the safety of the person arrested (CPC, sect. 4); criminal accountability of authorities using excessive use of force (CC, sect. 298); the limitation of force used in executing process or in arrest to be reasonably necessary when overcoming resistance (CC, sects. 261, 272, 273). Further potential safeguards are the obligations to take an arrested person within a reasonable time to a police station (CPC, sect. 9); to report persons arrested without warrant to the nearest magistrate (CC, sect. 20); to notify the person arrested of the cause of the arrest (CPC, sect. 5); to inform the person arrested without delay of the charge against him or her and to give reasonable facilities for obtaining legal advice, taking steps to furnish bail and otherwise making arrangements for his or her defence or release (CPC, sect. 9);

⁴ Apart from duplication of duties, rivalry and competition for scarce resources, the proliferation of law enforcement agencies has been criticized for the establishment of parallel law enforcement regimes with the concomitant proliferation of parallel cells and detention facilities, the potential for abuse, and a challenge for adequate central oversight. See the *Report of the Presidential Committee on Police Reform*, May 2006, pp. 185-187.

and the prohibition of wilful delays to take an arrested person charged with an offence before court (CC, sect. 130).

27. In addition, the Criminal Code penalizes unlawful deprivation of liberty (sect. 365), and requires the proper keeping of records of any person in confinement and punishes neglect or deliberate false entries (sect. 368). Section 419 of the Criminal Procedure Code requires that young persons ordered to be imprisoned shall not be, so far as it is deemed practical, allowed to associate with adult prisoners.

28. Section 28 of the 1990 Evidence Act provides that a confession to a charge made by an accused person cannot be used to secure a conviction against him or her if it appears to have been caused by any inducement, threat or promise from a person in authority and sufficient to give the accused person grounds for supposing that he or she would avoid any evil of a temporal nature. This provision, however, does not appear to satisfy the wider requirements of article 15 of CAT, which provides that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against the person accused of torture.

4. Complaints and investigation of acts of torture

29. Oral or written complaints of police misconduct by members of the public can be made to any superior police officer about acts of misconduct involving his or her subordinates, and if the complainant is dissatisfied with the response, he or she could complain in writing to higher officers, including the IGP. Complaints could also be sent to the police Public Complaints Bureau (PCB) located in the police public relations department of every state police command, or to the police Provost Department at the Force headquarters.⁵ In addition, Human Rights Desks for receipt of complaints have been established in recent years for each state command.

30. The Police Service Commission (PSC), an independent constitutional body established in 2001,⁶ is also responsible for investigating police abuses. Section 6 of the Act grants the body responsibility for the appointment, promotion, discipline and dismissal of all Nigerian police officers below the rank of Inspector General.

31. Criminal investigations and prosecutions of police officers are carried out by Investigating Police Officers (IPO) assigned within the command. Where sufficient evidence is found, they will refer the case to the Director of Public Prosecutions. Although instances of police misconduct are typically dealt with departmentally at first instance, internal review is without prejudice to criminal prosecution. The internal peer review, also referred to as an “orderly room trial”, is carried out by the Provost Department, which can impose various disciplinary sanctions.⁷ Discipline of senior officers (i.e. Assistant Superintendent of Police and above)

⁵ For a general discussion, see Alemika, E.E.O. and Chukwuma, I.C. (eds.), *Civilian Oversight and Accountability of Police in Nigeria*, Lagos: Centre for Law Enforcement Education, 2003.

⁶ 2001 Police Service Commission (Establishment) Act: the Commission is made up of a retired Justice of the Supreme Court or Court of Appeal, a retired police officer not below the rank of Commissioner, and four members of civil society.

⁷ See paragraph 29 and note 5 above.

ultimately rests with the PSC, where the IGP sets up a panel of senior officers in order to hear the case, and recommendations are forwarded to the PSC for sanctioning.

32. Complaints on human rights violations may be made in writing or orally to the National Human Rights Commission (NHRC). Created in 1995 by a military decree, NHRC is mandated to monitor and investigate all alleged cases of human rights violations and make appropriate recommendations to the Federal Government.⁸ Moreover, NHRC has identified torture as well as detention centres as 2 of its 15 main thematic areas. It has appointed a Special Rapporteur on Torture, Extrajudicial, Summary and Arbitrary Executions and a Special Rapporteur on Police, Prison and other Detention Centres. The Special Rapporteurs carry out investigations within their mandate and report to NHRC. However, the Commission is chronically under-resourced and lacks the judicial power to enforce redress, since it only has the power to make recommendations to Government.

33. The Legal Aid Council is mandated to provide free legal assistance and advice to persons who cannot afford a lawyer. A new programme deploying lawyers to police stations and magistrate courts has been recently introduced.

5. Compensation

34. According to section 35 (6) of the Constitution any person who is unlawfully arrested or detained shall be entitled to compensation and a public apology from the appropriate authority or person. However, this clause is not applied in the case of a person arrested or detained upon reasonable suspicion of having committed a capital offence.

6. Prevention

35. The Special Rapporteur notes that there is currently no regular or systematic mechanism or activities related to independent visits to detention facilities.

II. THE SITUATION OF TORTURE AND ILL-TREATMENT

36. The Special Rapporteur was told by government officials that torture is prohibited by law, though it may occur from time to time, in an unfortunate isolated circumstance, and that the sternest measures are taken against perpetrators, including dismissal and criminal charges. However, these observations appear divorced from the realities prevailing in criminal investigation departments (CID) and police stations in the country, at least those visited by the Special Rapporteur. In fact, at CID detention facilities, it was a challenge to find a detainee that had not been ill-treated. The high number of consistent and credible allegations received from speaking with various detainees, corroborated by forensic medical evidence, in facilities visited in different parts of the country and obtained within the span of a one-week mission, speaks volumes.

37. Despite the existence of safeguards for arrest and detention (paras. 18-28 above), they are effectively meaningless because they are regularly ignored. Torture was frequently cited to the Special Rapporteur as being used for the purpose of extracting money, obtaining confessions or

⁸ Human Rights Commission Act.

further information in relation to alleged crimes. Methods of torture included: flogging with whips; beating with batons, cables, bamboo sticks, and machetes; shooting suspects in the foot; threatening a suspect with death and then shooting him with powder cartridges; suspension from the ceiling or metal rods in various positions; and being denied food, water and medical treatment.

38. Suggestions by officials that “torture” is only isolated or merely amounts to rough handling of suspects, are contradicted by evidence the Special Rapporteur found of dedicated rooms in CIDs for torture and equipment used for such purposes, and by the testimony from numerous detainees.

39. The Special Rapporteur concurs with the Special Rapporteur on summary, arbitrary and extrajudicial executions that while “... the scourge of armed robbery plagues much of Nigeria, the label of ‘armed robber’ is very often used to justify the jailing and/or extrajudicial execution of innocent individuals who have come to the attention of the police for reasons ranging from a refusal to pay a bribe to insulting or inconveniencing the police ... [The rules contained in Police Order No. 237] are deeply flawed. They provide close to a carte blanche to the police to shoot and kill at will” (E/CN.4/2006/53/Add.4, paras. 43 and 46). A high proportion of individuals detained in the facilities that the Special Rapporteur visited were held on suspicion of armed robbery; many of them with close-range gunshot wounds to the feet and legs, which is reportedly a common practice to prevent suspects from fleeing once they have been apprehended and a means to make them confess on the threat of death. In custody, many of these detainees have not received any medical treatment for these injuries, which become seriously infected and consequently life-threatening. Allegations were received from detainees of prisoners dying as a result of such injuries, and this denial of medical treatment effectively amounts to extrajudicial killing.

40. On the basis of a thorough analysis of the legal system, visits to detention facilities, interviews with detainees, the support of forensic medical evidence, and interviews with government officials, lawyers and representatives of NGOs, the Special Rapporteur concludes that torture and ill-treatment are widespread in police custody, and particularly systemic at CIDs. Torture is an intrinsic part of how the police operate within the country.

Impunity and lack of effective complaints mechanisms

41. There was no question about accountability of perpetrators because there are no functioning complaint mechanisms in place to receive allegations, and to report and seek effective redress for acts of torture. Victims, especially those still in detention, have no confidence in the existing mechanisms, such as reporting allegations directly to senior police officials or to the Human Rights Desks (in those stations where they exist) - for example, at CID Pantí, Lagos, prisoners were detained and tortured right behind the Human Rights Desk. Other avenues to complain are out of reach to the vast majority of detainees: they cannot afford lawyers and have no practical means of communicating allegations to family, NGOs, or others (i.e. by telephone, visits, etc.). The 2006 NHRC annual report states, “The Commission has a viable and effective complaints mechanism for treating complaints of allegations of human rights violation.” The Special Rapporteur notes that he received more credible complaints of

ill-treatment during any one of his visits to CIDs than NHRC throughout the country in one year.⁹

42. The Special Rapporteur notes with concern the climate of fear and mistrust of police prevalent in many of the places visited, and particularly at CIDs. A significant number of detainees declined to speak with the Rapporteur due to the fear of retaliations by the authorities, or only did so under the condition of anonymity. Detainees have the feeling of being left completely at the mercy of the officers and live under the constant fear of violent reprisals for any complaints, behavioural infractions, acts of non-compliance, or otherwise without provocation. Despite knowing that police abuse is wrong, victims feel powerless and are resigned to accept that impunity is the natural order of things when it comes to Nigerian law enforcement.

43. Attempts to register complaints may be met with intimidation, or investigations lack independence as they may be conducted by the police themselves or dealt with internally. Forensic medical examinations which could sustain complaints are non-existent, even in cases of death in police custody. No information was provided by the Government on evidence of successful criminal prosecutions of perpetrators of torture, or payment of compensation to victims, or statistics on disciplinary sanctions meted out to officers.

A first-hand account

44. The Special Rapporteur met at least three detainees with life-threatening gunshot wounds that would die without prompt medical attention (Mr. Elijah John, Mr. Bayo Abdurmo Adekunk, both of whom were interviewed at CID Pantí, Lagos, on 6 March 2007; and Mr. Mohammed “Mame” Bello, who was interviewed at CID Gwagwade, Kaduna, on 8 March. See appendix I for further details). By telephone on 10 March, the Special Rapporteur made a direct plea to Mr. Sunday Ehindero, the Inspector General of Police, for urgent medical treatment, and assurances were received in this regard (in addition, follow-up letters were sent on 6 and 27 April). Appeals for assistance were also sent to the Controller General of Prisons, the Minister of Justice/Attorney General.

45. On 3 April 2007, a visit by United Nations officials found the torture room at CID Pantí emptied. According to the officers in charge, Mr. John and Mr. Abdurmo Adekunk were brought to court shortly after the Special Rapporteur’s visit. The District Court Chief Prosecutor, Magistrate Court Yaba, indicated that Mr. Abdurmo Adekunk (case file C 26/07) was sentenced for armed robbery and imprisoned at Ikoyi Island Prison, Lagos. However, upon inquiries by the Lagos Prison Controller, the Head of Ikoyi Prison reported that Mr. Abdurmo Adekunk did not appear on the current list of inmates. Furthermore, according to the files of the Investigating Police Officer, CID Pantí, on 12 March, Mr. John’s case (charge number - N/23/2007) was transferred to Magistrate Court No. 12, Ebute - Meta, Lagos. However, to date, no records related to this case ever reached the court.

46. On 21 May 2007, on the occasion of the InterAction Council of Former Heads of State and Government in Vienna, the Special Rapporteur raised the case of those men with

⁹ Respectively, for the years 2005 and 2006, 42 and 24 complaints of degrading treatment by law enforcement agencies were received by NHRC (see 2005 and 2006 NHRC annual reports).

President Obasanjo. On 28 May, President Obasanjo wrote to the Special Rapporteur to assure him of the assistance of the IGP in the follow-up to these cases. On 6 June, the Special Rapporteur reiterated his appeal for information on the situation of these detainees to the newly inaugurated IGP, Mr. Mike Okiro. Despite several attempts to follow up on their situation with the Inspector General of Police, the Controller General of Prisons, the Attorney General and Minister of Justice, and the President, the authorities failed to provide any information on these persons; neither details of any medical treatment provided, nor their current whereabouts.

47. Given their physical condition at the time of the visit and their subsequent disappearance, the Special Rapporteur could not but conclude that these three individuals had been victims of reprisals as a result of his intervention. Either these detainees had died as a result of a deliberate denial of medical treatment, or, worse, they had been killed by the police and disappeared: a vivid first-hand confirmation of allegations of the widespread practice of extrajudicial killings across the country.

48. By letter dated 14 September 2007, the Government stated that it is “committed to unravelling the circumstances leading to and surrounding the deaths, which it has established, of two of the detainees, namely: Mr. Elijah John and Mr. Bayo Abdurmo Adekunle. Their deaths are presently being investigated and the Government is committed and determined to hold all these found guilty, accountable”.¹⁰ By the same letter, the Government informed that Mr. Bello was alive and in prison custody in Kaduna. A photograph and medical certificate of Mr. Bello following his treatment was also provided by the Government. The Special Rapporteur reports that he has not received any information to date on steps taken to bring the officers implicated in these acts, or their superiors, to justice.

49. These two clear and grave examples of serious torture, disappearance and extrajudicial killing, notwithstanding the above-stated commitments made at the highest levels of Government, disturbingly illustrate and confirm the inability of the current system to make timely and effective inquiries in order to protect victims of serious human rights violations. It further illustrates the breakdown of a credible system of accountability of law enforcement in Nigeria.

¹⁰ However, on 20 September 2007, in a meeting with the Special Rapporteur in Geneva, the Permanent Representative of Nigeria informed him that Mr. John and Mr. Adekunle were subsequently found to be alive and have received medical treatment. Despite repeated requests for details of their situation, including their whereabouts and medical treatment reports, no information has been provided to date.

III. CONDITIONS OF DETENTION

50. The conditions of detention in police cells visited by the Special Rapporteur were appalling. Detainees are held in unsanitary overcrowded cells, forced to sleep on the concrete floor, and are provided with insufficient food and clean water. At some police stations, women and men, children and adults are held together in extremely overcrowded conditions. Medical care is non-existent and seriously ill detainees are left to languish until they die. In the opinion of the Special Rapporteur, this demonstrates a complete disrespect for human life and dignity.

51. All the prisons visited by the Special Rapporteur are characterized by severe overcrowding, consisting of an inmate population that is typically double or triple the actual capacity of the facility. For example, while Port Harcourt Prison is designed for 800 detainees, a total of 2,420 are presently held. The vast majority of detainees (e.g. in Port Harcourt, 92 per cent) are held awaiting trial (in pretrial detention) or held without charge for lengthy periods, as long as 10 years. These detainees are subject to even more severe conditions than those of convicts: they are held in overcrowded cells, lacking appropriate hygiene facilities, with insufficient places to sleep, inadequate and/or insufficient food, water, and medical care, let alone any opportunities for educational, leisure, or vocational training. Pretrial detainees reported that they are forced to pay for food, bathing, or contacting family members, receiving visitors, or medication. It is ironic that discriminatory treatment suffered by pretrial detainees, who may be held longer than some convicts, has been justified by the heads of some facilities on the grounds that their guilt being not yet proven, there is less responsibility and obligation, and consequently less resources, allocated to care for them. Children on remand are often held with adult males.

52. The Special Rapporteur considers that such an extensive recourse to pretrial detention constitutes the major cause for the overcrowding of prisons. It is contrary to the principle of the presumption of innocence and to the rule regarding deprivation of liberty as a disposition of last resort laid down by international law (article 9, paragraph 3, of the International Covenant on Civil and Political Rights).

53. The Special Rapporteur is encouraged by the Government's recognition of the severity of the problem by considering the release of approximately 25,000 of the 45,000 detainees currently held in Nigerian prisons as announced on 4 January 2006. He is further encouraged by the announcement on 16 May 2007, that the Government will release all prisoners over 70, and those over 60 who have been on death row for 10 years or more.

54. The Special Rapporteur notes that at the facilities he visited the conditions of detention of female detainees are much better than those of men. The female sections/wings of the prisons are not overcrowded and women are provided with considerably better facilities. He welcomes that at Port Harcourt prison, the female detainees are able to engage in (vocational) activities, such as sewing, etc.

55. The Special Rapporteur acknowledges that at most of the facilities he visited there were serious constraints on resources and that staff have not been paid for several months.

IV. CORPORAL PUNISHMENT, SHARIA PENAL CODE PUNISHMENTS, AND CAPITAL PUNISHMENT

A. Corporal punishment

56. The Special Rapporteur notes that corporal punishment, such as caning, and including sharia penal code punishments of the northern states (i.e. amputation, flogging and stoning to death), remain lawful in Nigeria. Moreover he notes that sharia-related provisions for adultery and sodomy discriminate against women and same-sex couples, respectively.

57. Section 17 of the Criminal Code includes death and caning as punishments. Caning can be inflicted in addition to imprisonment for various offences regarding the defilement of young girls (sects. 218, 219, 221, 222, 225A), offences endangering life or health (sects. 330, 334), and assaults on females (sects. 358, 359).¹¹ Furthermore, section 18 gives courts the discretion to order the caning of male persons believed to be under 17 in addition to or in substitution for any other punishment to which they are liable. Section 295 justifies “a blow or other force” for the correction of children, servants and others.

58. The Criminal Procedure Code sets out in part 42 the provisions regulating caning: no person shall be sentenced to caning more than once for the same offence (sect. 384); persons over 45 shall not be punished with caning (sect. 385); caning shall be executed with a light rod, cane or birch and not exceed 12 strokes (sect. 386); offenders convicted for a minimum of six months’ imprisonment can be sentenced to caning in addition to or in lieu of any other punishment (sect. 387); and a confirmed sentence of corporal punishment shall be inflicted as soon as practicable (sect. 388).

B. Sharia penal codes

59. The sharia penal codes contain a number of provisions raising serious concerns not only regarding their constitutionality but more fundamentally regarding their compatibility with the international prohibition of torture and other cruel, inhuman and degrading treatment (see for a detailed discussion, report on the Mission to Nigeria of the Special Rapporteur on freedom of religion or belief (E/CN.4/2006/5/Add.2), paras. 47-79).

60. The Special Rapporteur recalls that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Under international law, they are not lawful sanctions and violate the international human rights treaties to which Nigeria is a party, particularly CAT, ICCPR and CRC (A/60/316, paras. 18-28).

¹¹ Defilement of girls under 13 (Criminal Code (CC), sect. 218); Householder permitting defilement of young girls on his premises (CC, sect. 219); Defilement of girls under 16 and above 13, and of idiots (CC, sect. 221); Indecent treatment of girls under 16 (CC, sect. 222); Persons trading in prostitution (CC, sect. 225); Disabling in order to commit felony or misdemeanour (CC, sect. 330); Intentionally endangering safety of persons travelling by railway (CC, sect. 334); Punishment of rape (CC, sect. 358); Attempt to commit rape (CC, sect. 359).

C. Capital punishment

61. Noting that capital punishment is still available under the laws of Nigeria, the Special Rapporteur is encouraged by the position of President Obasanjo not to support the death penalty. According to information received from the Government, eight executions have been carried out in Nigeria in the period of March 2002 to July 2006.¹² Although the rate of executions may be low, the Special Rapporteur expresses concern that persons continue to be sentenced to death, contributing to the growing numbers of persons languishing on death row for many years (e.g. up to 17 years) in conditions that are inhuman. The Special Rapporteur appeals to the Government to officially declare a moratorium, to commute death sentences to terms of imprisonment and de jure abolish capital punishment.

V. FEMALE GENITAL MUTILATION

62. On the occasion of International Women's Day, which was celebrated during the week of the Special Rapporteur's visit in Nigeria and drew attention to violence against women and girls and the impunity that makes it possible, the Special Rapporteur welcomed the adoption of a number of State laws prohibiting discrimination against women in critical areas, such as female genital mutilation and early marriage. Despite such legislation, however, he remains concerned at the persistence of these practices and the social acceptance of them and the lack of effective mechanisms to enforce the existing prohibitions.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

63. In Nigeria, torture and ill-treatment are widely practised in police custody; they are particularly systemic in the Criminal Investigation Departments (CID). Torture is an intrinsic part of the functioning of the police in Nigeria. This unacceptable state of affairs must end. The Government must take immediate and effective measures to ensure that this message permeates every level of every law enforcement agency in Nigeria.

64. The Special Rapporteur emphasizes that the prohibition of torture and ill-treatment is absolute. The circumstances surrounding the deaths of the two persons personally interviewed by the Special Rapporteur (see paragraphs 44-49 above) - examples of serious torture, disappearance and extrajudicial killing - illustrate and confirm the inability of the current system to effectively investigate allegations, protect victims of serious human rights violations, and bring law enforcement officials in Nigeria to account.

65. The findings of the Special Rapporteur are hardly a revelation as many credible human rights organizations, as well as United Nations human rights mechanisms, as for example the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2006/53/Add.4),

¹² In this period, three persons were executed in Kaduna Prison, Kaduna State, for homicide and armed robbery; one person in Jos Prison, Plateau State, for homicide; and four persons in Enugu Prison, Enugu State, for armed robbery.

have documented and concluded that torture is widespread in the country.¹³ That the conditions in detention are appalling is similarly well known.

66. It is fact that Nigerian law enforcement is seriously under-resourced and at the same time confronted with a high rate of violent crime. Consequently, adequate training is lacking, corruption is endemic, and the cadres, emboldened by a culture of impunity for torture, are prone to heavy-handed tactics in a criminal justice system which relies heavily on confessions. But the roots of the problem cut a wider swathe. The Special Rapporteur concurs fully with the analysis of the Special Rapporteur on summary, arbitrary and extrajudicial executions, who carried out a visit to the country in 2005:

There is no single entry point for reformers of the dismally inadequate Nigerian criminal justice system. Virtually every component part of the system functions badly. The result is a vicious circle in which each group contributing to the problem is content to blame others. Thus for example, police officers complain about a lack of resources, but the politicians complain that the police are thugs and their performance undeserving of increased resources. The judiciary blames the prison system and the police for the scandalous number of uncompleted cases, while the police observe that arresting robbers is futile because the courts will never convict them. It is essential to understand the vicious cycle of blame and for all actors to acknowledge their own responsibilities (E/CN.4/2006/53/Add.4, para. 88).¹⁴

67. The Special Rapporteur cannot emphasize enough that Nigerians themselves have exhaustively identified the nature and scale of these problems. Indeed in August 2005, President Obasanjo acknowledged the severity of the problem of torture in the country.¹⁵ Further, Nigerians have already come up with the way forward. One needs only to pore over the comprehensive findings and recommendations of the Presidential Commission on Reform of the

¹³ See also Human Rights Watch, *Rest in Pieces, Police Torture and Deaths in Custody in Nigeria*, July 2005.

¹⁴ This is echoed in the Report of the Presidential Committee on Police Reform, which states: "... there are some factors, organizations, and institutions that tend to affect the effectiveness and efficiency of the police in the discharge of its statutory responsibilities. For the Police to operate maximally and meet the expectations of the public, these institutions must play their part in such a way that they will help rather than hinder the efficiency of the Police ... institutions such as the Prisons and the Judiciary, which together with the police make up the Criminal Justice System have to be reformed to ensure a harmonious working relationship with the reformed Nigeria Police ..." (pp. 179-180).

¹⁵ See the President's opening address in Ehindero, S.G., and Alemika, E.E.O. (eds.), *Human Rights and Law Enforcement in Nigeria, Proceedings at a national workshop, 18-19 August 2005*, 2005, which contains, among other things, discussions on patterns of human rights violations by law enforcement agencies in Nigeria, human rights abuse by police, etiology of police brutality in Nigeria, as well as recommendations.

Administration of Justice, the Presidential Committee on Prison Reform and Rehabilitation, and the Presidential Committee on Police Reforms.¹⁶

68. Thus the commitment to engage in a meaningful process of reform in Nigeria is not new.¹⁷ What is of concern, however, is that such reform efforts have been short-lived, without the same commitment to follow-up.

69. The Special Rapporteur recognizes the significant challenges faced by the country. As the report of the Presidential Commission on Reform of the Administration of Justice in Nigeria states, "... transforming the administration of justice in Nigeria will have to be taken in the context of many and competing economic and human development challenges facing the country as a whole. However the ... justice sector is relevant and indeed central to poverty reduction

¹⁶ *Proposals for Reform of the Administration of Justice in Nigeria*, Presidential Commission on Reform of the Administration of Justice in Nigeria, February 2006; Report of the Presidential Committee on Police Reform, May 2006; and Presidential Committee on Prison Reform and Rehabilitation (2006). See also *Key Interventions in the Justice Sector in Nigeria*, Report of the Harmonisation Committee on the Review of Key Recommendations from the Reports of the Presidential Commission on Reform of the Administration of Justice, Presidential Committee on Prison Reform and Rehabilitation, and Presidential Committee on Police Reforms, March 2007.

¹⁷ The United Nations Office on Drugs and Crime (UNODC) is currently working with the Nigerian Prison Service, the Ministry of Internal Affairs and the Ministry of Justice on the development and implementation of the prison reform agenda of the Government. The UNODC prison reform project involves: capacity-building for prison personnel; rehabilitation of prison infrastructures; development of a detainee data file management system; improved health-care delivery; rehabilitation of prison inmates; and prison decongestion. In addition, UNODC is concluding a preventive HIV/AIDS and drug abuse awareness programme in some selected prisons in the country, which began in 2003. More generally, since 2003, UNODC has been working with the Government to strengthen the rule of law, both at the national and local levels, by increasing the capacity and integrity of the justice system, in particular of the judiciary. In one of its projects, "Support to the Economic and Financial Crimes Commission (EFCC) and the Nigerian Judiciary", UNODC is working with the Government and the European Union to: increase access to justice; timeliness and quality of justice; public confidence in the courts; efficiency, effectiveness and credibility of the complaints system; and coordination across the criminal justice system. Other partners in the international community are also striving to see that the effectiveness of the criminal justice sector is enhanced. For example, the United Kingdom Department for International Development (DFID) through its programme, "Security, Justice and Growth Programme", has substantially supported the justice sector, covering areas such as improving systems for delivery of effective justice services, at both federal and state levels. DFID has also promoted a project on community policing with the Nigerian Police Force. There is currently a Justice Sector Coordination Working Group made up of UNODC, the World Bank, the European Union, DFID, and USAID that seeks to harmonize the respective programmes in the justice sector, develop joint initiatives, and seek out more efficient ways of implementing programmes in the sector.

initiatives...”.¹⁸ Moreover, “the solution to many of the problems that ... [have been] ... identified does not lie only in budgetary appropriation, much of the issues can be resolved administratively ...”.¹⁹

70. Since the visit was carried out, the Special Rapporteur wishes to report on two important developments.

71. By letter dated 8 May 2007, President Obasanjo wrote to the Special Rapporteur to acknowledge receipt of a draft law on the definition and prohibition of torture in line with article 1 of CAT, information on OPCAT, and a new draft law on the establishment of a torture investigation commission, which he had requested at their 9 March 2007 meeting. He indicated that the Attorney General and the Minister of Justice were requested to use the draft laws as a basis for bills for consideration by the Federal Executive Council and onward transmission to the National Assembly for passage into law.

72. On 16 May 2007, the Government announced the release of all prisoners over 70, and those over 60 who have been on death row for 10 years or more; an information which was confirmed by the letter of the Nigerian Government dated 14 September 2007 (see paragraph 6 above). The Special Rapporteur welcomes this information and has requested the Government to provide detailed information on this process, including the numbers of prisoners released, the names of the death row prisoners that have been released, and the dates of their release.

73. The Special Rapporteur expresses his gratitude to President Obasanjo for taking these important initiatives. He calls upon the Government to expeditiously follow through.

74. As a member of the Human Rights Council, Nigeria has pledged cooperation with human rights treaty bodies, timely submission of State party reports, and declared its readiness to welcome Special Rapporteurs and to submit itself to universal periodic review. The invitation of the Government to the Special Rapporteur and the cooperation extended to him demonstrates Nigeria’s willingness to open itself up to independent and objective scrutiny of its human rights situation, and reaffirms its commitment to cooperate with the international community in the area of human rights.

B. Recommendations

75. In this continuing spirit of cooperation and partnership, the Special Rapporteur recommends that the Government, with the assistance of the international community (i.e. the United Nations and other actors), take decisive steps to implement the following recommendations:

¹⁸ *Proposals for Reform of the Administration of Justice in Nigeria*, Presidential Commission on Reform of the Administration of Justice in Nigeria, February 2006, p. v.

¹⁹ *Ibid.*, p. iii.

Impunity

(a) The absolute prohibition of torture should be considered for incorporation into the Constitution;

(b) The highest authorities, particularly those responsible for law enforcement activities, should declare unambiguously that the culture of impunity must end and that torture and ill-treatment by public officials will not be tolerated and will be prosecuted. The message should be spread that torture is an extremely serious crime which will be punished with severe (long-term) prison sentences;

(c) The crime of torture should be defined as a matter of priority in accordance with article 1 of the Convention against Torture, with penalties commensurate with the gravity of torture;

(d) An effective and independent complaints system for torture and abuse leading to criminal investigations should be established, similar to the Economic and Financial Crimes Commission;

Safeguards

(e) The right to legal counsel should be legally guaranteed from the moment of arrest;

(f) The power to order or approve arrest and supervision of the police and detention facilities should be vested solely with independent courts;

(g) All detainees should be effectively guaranteed the ability to challenge the lawfulness of the detention before an independent court, e.g. through habeas corpus proceedings;

(h) Judges and prosecutors should routinely ask persons brought from police custody how they have been treated and, even in the absence of a formal complaint from the defendant, order an independent medical examination in accordance with the Istanbul Protocol;

(i) Those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pretrial detention, which should not exceed 48 hours. After this period they should be transferred to a pretrial facility under a different authority, where no further unsupervised contact with the interrogators or investigators should be permitted;

(j) The maintenance of custody registers should be scrupulously ensured, including recording of the time and place of arrest, the identity of the personnel, the actual place of detention, the state of health upon arrival of the person at the detention centre, the time at which the family and a lawyer were contacted and visited the detainee, and information on compulsory medical examinations upon being brought to a detention centre and upon transfer;

(k) Confessions made by persons in custody without the presence of a lawyer and that are not confirmed before a judge shall not be admissible as evidence against the persons who made the confession. Serious consideration should be given to video and audio taping of interrogations, including of all persons present;

(l) All allegations of torture and ill-treatment should be promptly and thoroughly investigated by an independent authority with no connection to the authority investigating or prosecuting the case against the alleged victim;

(m) Any public official found responsible for abuse or torture in this report, either directly involved in torture or ill-treatment, as well as implicated in colluding in torture or ignoring evidence, should be immediately suspended from duty, and prosecuted. The Special Rapporteur urges the Government to thoroughly investigate all allegations contained in appendix I to the present report with a view to bringing the perpetrators to justice;

(n) Victims of torture and ill-treatment should receive substantial compensation proportionate to the gravity of the physical and mental harm suffered, as well as adequate medical treatment and rehabilitation;

(o) The declaration should be made with respect to article 22 of the Convention against Torture recognizing the competence of the Committee against Torture to receive and consider communications from individuals who claim to be victims of a violation of the provisions of the Convention;

Conditions of detention

(p) The release of non-violent offenders from confinement in pretrial detention facilities should be expedited, beginning especially with the most vulnerable groups, such as children and the elderly, and those requiring medical treatment subject to non-custodial measures (i.e. guarantees to appear for trial, at any other stage of the judicial proceeding and, should occasion arise, for execution of the judgement);

(q) Pretrial detainees and convicted prisoners should be strictly separated;

(r) Detainees under 18 should be separated from adult ones;

(s) Females should be separated from male detainees;

(t) The Criminal Procedure Code should be amended to ensure that the automatic recourse to pretrial detention, which is the current de facto general practice, is authorized by a judge strictly as a measure of last resort, and the use of non-custodial measures, such as bail and recognizance, are increased for non-violent, minor or less serious offences;

Corporal punishment

(u) Abolish all forms of corporal punishment, including sharia-based punishments;

Capital punishment

(v) Abolish the death penalty de jure, commute the sentences of prisoners on death row to imprisonment, and release those aged over 60 who have been on death row for 10 years or more;

Violence against women

(w) Establish effective mechanisms to enforce the prohibition of violence against women including traditional practices, such as FGM, and continue awareness-raising campaigns to eradicate such practices, and expedite the adoption of the Violence against Women Bill;

Prevention

(x) Security personnel shall undergo extensive and thorough training using a curriculum that incorporates human rights education throughout and that includes training in effective interrogation techniques and the proper use of policing equipment, and that existing personnel receive continuing education;

(y) Security personnel recommended for United Nations, as well as regional, peacekeeping operations should be scrupulously vetted for their suitability to serve;

(z) The Optional Protocol to the Convention against Torture should be ratified, and a truly independent monitoring mechanism should be established - where the members of the visiting commissions would be appointed for a fixed period of time and not subject to dismissal - to carry out unannounced visits to all places where persons are deprived of their liberty throughout the country, to conduct private interviews with detainees and subject them to independent medical examinations;

(aa) Systematic training programmes and awareness-raising campaigns be carried out on the principles of the Convention against Torture for the public at large, security personnel, legal professionals and the judiciary.

76. In terms of international cooperation, the Special Rapporteur recommends that relevant international organizations, including the Office of the High Commissioner for Human Rights and the United Nations Development Programme and United Nations Office on Drugs and Crime, be requested to provide, in a coordinated manner, assistance in the follow-up to the above recommendations.

Appendix I

PLACES OF DETENTION - INDIVIDUAL CASES

Introduction

1. The following accounts are based on allegations by detainees while being interviewed by the Special Rapporteur. If detainees requested confidentiality, their allegations are not contained in the present appendix.
2. The Special Rapporteur conducted visits to detention facilities unannounced and was able to hold private interviews with detainees, in general. It should be mentioned that the Government on its own initiative organized a programme, including visits to a number of facilities (e.g. Kuje Prison, and Force CID, Garki) which the Special Rapporteur subsequently visited unannounced. While detainees in such facilities reported that they were aware of the visit, that the facilities were cleaned in advance, and at Force CID, Garki most detainees were allegedly transferred away before the visit of the Special Rapporteur, these incidences had no impact on the subsequent findings. The individual case histories are based on well-substantiated allegations of detainees. In many cases allegations of torture or ill-treatment were corroborated by medical evidence.

I. STATE SECURITY SERVICES (VISITED ON 4 AND 8 MARCH 2007)

3. On 4 and 8 March, the Special Rapporteur attempted to visit the detention facility at the headquarters of the State Security Services (SSS) in Abuja. On 8 March, he also tried to visit the State Security Services' detention facility in Kaduna. On all three occasions he was refused entry. This denial of access constitutes a deliberate and flagrant violation of the terms of reference for the visit agreed upon by the Government. Since he received credible allegations of torture by this intelligence agency, the denial of his right to assess for himself the allegations by inspecting unannounced the facilities and interviewing detainees in private leads him to strongly suspect that the authorities wished to conceal evidence. On the last day of the mission, the Special Rapporteur met representatives of the SSS: Mr. S. Agbase, Director of Enforcement, Mr. Ibrahim Bakut, Director of Administration, and Mr. Felix Ikumapayi. In the course of this meeting it was confirmed that the facility in Kaduna contains detention cells, which the authorities there (i.e. Mr. Musa Tbautum, Officer in Charge and Mr. Baba Thomas, Assistant to the Officer in Charge) had earlier denied and was reason for the denial of access.

II. KUJE MEDIUM SECURITY PRISON, KUJE, FEDERAL CAPITAL TERRITORY (VISITED ON 4 MARCH 2007)

4. Kuje Medium Security Prison is located on the outskirts of Abuja. Originally an 80 bed facility, its current official capacity is 320 inmates. On the day of the visit, 529 prisoners were detained there. Ninety-one per cent were awaiting trial prisoners; and of these 62 per cent were charged with armed robbery, 11 per cent for homicide, and 27 per cent for other offences. The Special Rapporteur was received by Mr. Abdul-Rahman Ashafa, the Controller, and Mr. Kabir

Umar Funtua, Assistant Controller of Prisons. A new building providing additional space for 120 detainees is currently in the process of being built.

5. **General conditions and treatment in detention.** The prison director and his staff were fully cooperative and allowed unrestricted access to all detainees and ensured private interviews. The Special Rapporteur received allegations about the practice of caning as a disciplinary punishment. Detainees also reported that they are punished for minor offences such as possession of cigarettes. They are beaten with sticks and cables, either in plain sight of other detainees, or in a backyard from where other detainees can hear the screaming. The detainees are later brought to the prison's hospital where they receive first aid. According to the allegations, the most recent caning was carried out the month prior to the Special Rapporteur's visit. The prison director confirmed the practice, stated that it would only be carried out after consultation with the prison's doctor, and that the most recent case was in October 2006. As another form of disciplinary punishment, detainees are put into solitary confinement in the "back cell" (1.5 x 2 m cell) where they are held for no longer than two days according to the prison director. However, the Special Rapporteur received numerous accounts by detainees that they were held there for up to two weeks.

6. The water is of poor quality, and detainees complain about the quality (e.g. the rice is contaminated with small stones) and quantity of food. Only a small number of prisoners having the necessary financial means can order food from outside the prison ("self-feeding programme"). There is no possibility to make phone calls, neither to contact family members or a legal representative. Doctors provide only pain relievers, regardless of the medical complaint.

7. The cells for pretrial prisoners are heavily overcrowded (Cell No. 1: capacity 136, actual population 235; Cell No. 2: capacity 128, actual population 246 detainees). Bedding is insufficient. Although bunk beds are available, many detainees have to sleep on the floor, under the beds of others, or have to share. There are two toilets per cell. Detainees are locked up in the cell for the entire day, except from 10 a.m. to 1 p.m. Furthermore, pretrial detainees are barred from participating in any recreational, vocational or educational activities.

8. The cell for convicts is less crowded. These prisoners can participate in recreational, vocational or educational activities. Pretrial detainees might be transferred to the convict cell if they pay, or are in bad health.

A. Medium Custody Cell No. 1: pretrial detainees

9. **Sunday Ogar**, aged 25, construction worker, Edo State. On 4 July 2002, he was arrested from the construction site he was working in connection with the theft of US \$150,000. He was accused of conspiracy and robbery. Taken to Force CID, Garki, he was tortured by the police during his two months of detention there. During one three-day period, he was brought to an office, stripped naked, handcuffed, beaten on the head, and suspended from the ceiling for approximately one hour from his handcuffs. He reports no visible injuries remaining except for hearing problems. He did not report the torture when he arrived at the prison, nor was a medical

examination carried out upon his arrival. On 6 September 2002, he was remanded in custody in Kuje Prison. In October 2005, his case came to the High Court and he was granted bail for Naira 8,000, which he was unable to afford. He has not received visits from his family, nor does he have a lawyer.

10. **Abel Dayo Adeagbo**, aged 18, Ekiti State. On 25 February 2006, he was arrested in Lube (between Abuja and Kuje Prison) because he went to the house of a police officer, which he had mistaken for a brothel. He was involved in scuffle with the police officer during which he suffered a head injury. He was brought to Lube Police Station, where he was beaten and deprived of food for three days. On 1 March 2006, he was remanded in Kuje Prison. He did not report any experience of torture in prison.

11. **Gbokos Oswuo**, aged 37, wood merchant, Rivers State. On 28 August 2006, he was arrested in Abuja by the State Security Service (SSS) in his hotel room. The SSS officers in civilian clothes forcibly entered his room at midnight, handcuffed him and brought him to the SSS headquarters in Abuja, where he was detained without being able to inform any relatives or a lawyer. He was interrogated about kidnappings and hostages in the Niger Delta. On 30 August around midnight, he was blindfolded, handcuffed and shackled and brought to a cemetery outside of Abuja. He was threatened with death, told, "Have your last prayer", suspended from a tree and beaten with cables. He was tortured to force him to admit his involvement in hostage-takings, to which he later confessed. Mr. Oswuo was able to provide the Special Rapporteur with a detailed sketch of the location of his cell, which was located in the basement of the SSS' headquarters. He also reported that during his detention Mr. Asari Dokubo and a person named Osmajla from Kanu State had been kept there as well. The latter reportedly has been detained incommunicado for two years at the SSS facility on terrorism charges. Up until mid November 2006, Mr. Oswuo was held incommunicado at which time the lawyer retained by his wife was able to trace him. He saw his lawyer for the first time when his case was brought to the High Court. The confession obtained under torture was forwarded to the High Court, and although he informed his lawyer that he had been tortured, no action was taken in this regard. On 14 November 2006, he was brought to Kuje Prison. He reports no abuse at the prison. He is able to order food from outside the prison (self-feeding).

12. **Yusuf Lado Osman**, aged 32, Kogi State. On 15 February 2004, he was arrested in his shop by plainclothes SSS officers on suspicion of vandalizing pipelines. He was brought together with other suspects to the SSS detention centre in Lokaja. He was detained there incommunicado for three months. The other suspects were released on bail. He reports that he did not confess and was not tortured. In May 2004, he was brought to Kuje Prison, and was not tortured or subjected to corporal punishment.

13. **Enefiok Asuquo**, aged 26, Akwa Ibom State. He has been awaiting trial in Kuje Prison since 2001 on charges of armed robbery. In the six years he has spent in Kuje Prison, he has only had one court hearing. He reports that he was subjected to solitary confinement, shackled and beaten with a baton about three months ago. The injuries could not be confirmed by the forensic expert.

B. Medium Custody Cell No. 2: pretrial detainees

14. **Benjamin Saro**, aged 24, an artist, Benue State. On 19 January 2001, he was arrested in a police raid, and charged with conspiracy and armed robbery. He reports that he was beaten with black wooden batons and cable wires, and money was demanded from him by the police. In the more than six years he has been in Kuje Prison awaiting trial, he reports that his case has been brought before the court only to be adjourned more than 100 times. In the prison he was beaten several times with a wooden and a plastic stick as a disciplinary measure. His next meeting with his lawyer is expected to be on 6 March 2007.

15. **Sunday Ofukwu**, aged 37, Delta State. Detained in Kuje Prison since 2003, he is awaiting trial for homicide. His case has been subjected to over 60 adjournments, typically because no witnesses were presented. He reports that he was interrogated in a 5 x 5 m cell in the basement of Force CID, Garki. He is next expected to appear in court on 14 March 2007.

16. **O.D.**, aged 17, student, Imo State. He is awaiting trial in Kuje Prison for one month. Seven months earlier, he was arrested and detained incommunicado at Force CID, Garki, for six months on suspicion of illegal firearms possession. He was beaten with an iron rod and slapped on the ear by CID officers in order to extract a confession. He did not receive any medical treatment, despite continuing complaints of pain in his ear. He has no lawyer and has had no contact with his family for seven months. He was last brought to court on 28 February 2007.

C. Maximum Custody Cell: convicted prisoners

17. **Austin Udemé**, aged 43, an economist, Akwa Ibom State. In May 2006, he was arrested in Abuja by police on suspicion of financial crimes. He was detained for two weeks in Maitama Police Station. Over the course of one week, between 8.30 p.m. and midnight, after the senior officers had left, he was interrogated by an IPO in the first floor room. He was beaten with a wooden baton and the butt of a gun while he was handcuffed; cabled with electrical wire; and flogged with strips of rubber. After two weeks he was taken to the detention centre in the office of the Economic and Financial Crimes Commission, Awolowo Road, Lagos. He was detained there for five months; nine days of which were spent in the Military Hospital in Lagos as a result of the beatings he sustained. He was later released, but rearrested and brought to Kuje Prison on 1 November 2006, where he is awaiting trial. He reports that he was not subjected to ill-treatment in Kuje Prison; he is generally better treated than other pretrial detainees because he has money. Because of his poor health he is able to stay in the cell with the convicts, who enjoy significantly better conditions and less overcrowding than pretrial detainees; he is on the self-feeding programme.

18. **Abdulahi Ibrahim**, aged 44, Kano State. He has been awaiting trial since January 2007 in Kuje Prison. On 11 December 2006, he was arrested and taken to Force CID, Garki, Abuja on suspicion of financial crimes. Until 23 December, he was detained incommunicado. On one occasion, in a room on the second floor of the CID building, between 9.30 a.m. and 4 p.m., he was tortured on the orders of two police officers, one male and one female: his limbs were wrapped with strips of rubber starting from the extremities in order to restrict circulation; and his arms and legs were tied behind his back, and he was suspended from a metal bar under his arms for about two hours. At 4.30 p.m. he was presented with a paper to write a statement,

which he refused to sign. At 6.45 p.m. he was told to sign the statement and he again refused. He described four 4 x 4 m cells in the CID, which held about 142 persons at the time of his detention. While at the CID, he begged for food to be smuggled in for him. On 23 December, he was able to pass a message through a CID officer to his lawyer, whose efforts, including contacts with the Deputy Assistant Commissioner of Police, led to his release. On 4 January 2007, however, on the orders of the female officer, he was rearrested and brought to Kuje Prison. He reports that although he is awaiting trial, he can afford to pay for a place in the convicts' cell. He last appeared in court on 26 February 2007.

19. **Observations.** The Special Rapporteur concludes that the conditions of detention for pretrial detainees are inhuman. The sanitary conditions are deplorable. The Special Rapporteur notes with strong concern that some detainees have been held in these conditions for up to six years while awaiting trial. As far as the conditions of detention of convicted prisoners are concerned, they were deemed slightly better.

20. **As a follow-up to his 4 March visit, by letter dated 4 May 2007, the Special Rapporteur sent an urgent appeal concerning recent allegations of violence in Kuje Prison. According to the allegations received: On 28 March 2007, the inmates sought to complain to the yard master about the shortage of clean drinking water provided to them. When they insisted to see the yard master, the warders attempted to use batons to force the inmates back into Medium Custody 1 cell. An armed squad arrived shortly thereafter and shot three inmates. Other warders armed with sticks, iron and other objects proceeded to beat the inmates. Seven inmates were reportedly identified by the warders as leading the protestors and taken to a cell in the yard where they were beaten and tortured until they gave up their protest three days after the incident. As a result, two of these prisoners died: Mr. Mathew Mato, a mobile police constable charged with armed robbery, and an elderly inmate named Joseph, who was facing charges of corruption. It has been reported that since the violence, inmates in the yard are served one cup of water in the morning and in the evening; complaints are ignored; and at the slightest provocation, the warders bring out and beat the offending inmate.**

III. NIGERIA POLICE FORCE CRIMINAL INVESTIGATION DEPARTMENT, GARKI, AREA 10, ABUJA, FCT (VISITED ON 4 MARCH 2007)

21. Force CID, Garki, is the Nigeria Police Force's principal CID for FCT and the rest of the country. The Special Rapporteur was received by the Commissioner of Police, Columbus Okaro, the Deputy Commissioner of Police, Christopher Katso, and the Chief Superintendent of Police, Mr. Aval M. Mohammed. According to the Deputy Commissioner, the total capacity of the CID is 150 inmates.

22. **General conditions and treatment in detention.** The authorities of the CID were cooperative and allowed unrestricted access to and private interviews with the detainees. However, there was a significant delay and the Special Rapporteur was only able to access the facility at nightfall after having waited for approximately 45 minutes. Due to the lack of

electricity in the cells the interviews had to be conducted with flash lights. The Special Rapporteur notes with concern that the detention facility did not have the possibility to provide light during night which, in his opinion, does not allow officers to protect detainees against inter-prisoner violence, among other things.

23. Upon arrival about 30 detainees were present in the cells, several of whom separately reported that approximately 400 detainees were removed from the CID two days earlier. The Special Rapporteur suggests that the removal of detainees was a deliberate attempt to hide evidence from the Special Rapporteur. Despite the maximum period of police custody stipulated in Nigerian law, being two days, many detainees have been held for several months at CID Garki.

24. **Musa Oasr**, aged 36. On 21 December 2006, he was arrested in Jos, Plateau State, on suspicion of armed robbery, and on 23 December, he was brought to Force CID, Garki. A few days after his arrival, he was tortured by four to five CID officers: a bicycle inner tube was tightly wrapped around his left hand in order to restrict blood circulation; and he was brought to the basement of the building, forced to stand on a table, handcuffed on the right hand to a hook on the ceiling, and was hung from his hand when the table was removed. He was beaten during his one hour suspension. He was taken down after he confessed. No medical attention was provided, and consequently he will not regain the use of his arm.

25. **Haruna Adamu**, aged 41, Kano State. In May 2006, he was arrested in Kano on suspicion of burglary, and transferred to Force CID in November 2006. Two days after his arrival at the CID he was taken out of the cell by plain clothed officers and brought to the basement, where one of his arms was fixed with a chain to the ceiling. He was suspended from his arm for about ten minutes and beaten, including with cables, in order to extract a confession. He confessed and signed a statement. Despite his arrest in May 2006, he has not yet been brought before a judge.

26. **Mohammed Jamiu**, aged 23, **Yusuf Abubakr**, aged 30, and **Mohammed Usman**, aged 27, all from Kebbi State, held in the same cell, all reported torture and ill-treatment in the basement of the CID. They reported that there were approximately 60 other detainees in their cell two days prior to the arrival of the Special Rapporteur.

27. **Swendy Uzedomen**, aged 28, Edo State. Suspected of armed robbery, he has been detained at the CID for about five months. In November and December of 2006, and January 2007, he was severely tortured in the basement by CID officers (Mr. Ashron, Mr. Agist, Mr. Zaccari): handcuffed and hung by his hand from a ceiling fan fixture, beaten, and shot in his left shin. As a result of being tortured, he has lost the use of his right hand and is suffering from a serious infection of his leg. He has been shackled almost since he arrived at the CID. He is held in a cell with about 24 other detainees.

28. **Chukuma**, aged 25, Abia State. He corroborates Mr. Uzedomen's account with a similar experience.

29. **Recommendations.** The Special Rapporteur expresses strong concern that the vast majority of detainees had been removed from CID Garki only two days before his arrival to conceal evidence. He recommends that prompt and independent investigations of all torture allegations be carried out in order to bring those responsible to justice (i.e. the alleged

perpetrators, Mr. Ashon, Mr. Agist and Mr. Zaccari; and those senior officers who were under a duty to investigate as soon as there were reasonable grounds to believe that an act of torture had been committed, namely the Commissioner and Deputy Commissioner). He recommends that lighting is improved in the evening hours to enable officers to protect detainees against inter-prisoner violence. The Special Rapporteur is further concerned over the sanitary conditions, the lack of sufficient clean water, as well as the very limited quantity of food provided, and lack of medical treatment for the detainees.

IV. NIGERIA POLICE FORCE, STATE CRIMINAL INVESTIGATION DEPARTMENT, PANTI, YABA, LAGOS, LAGOS STATE (VISITED ON 6 MARCH 2007)

30. The Special Rapporteur was received by Mr. Olayinka B. Balogun, the Deputy Commissioner of the Panti CID.

31. **General conditions and treatment in detention.** The Special Rapporteur expresses with strong concern that this is one of the worst detention facilities he has ever seen. After a lengthy and heated discussion with the Deputy Commissioner, the Special Rapporteur was finally allowed to conduct private interviews with the detainees. When requesting entry to the “torture room”, the Deputy Commissioner and guards attempted to mislead the Special Rapporteur and guide him to another building. Access to the “torture room” was secured only by telephone instructions from the IGP, Mr. Sunday Ehindero.

A. Cell behind Human Rights Desk

32. The cell is located at the end of a small corridor behind the human rights desk. The 72 male detainees accused of armed robbery inside have been there from five months to more than two years. The room is severely overcrowded, badly lit, and filthy. None of the detainees have left the cell since their arrival, have seen a lawyer or been visited by family members, who in many cases are not aware of their whereabouts. One detainee had been shot in the foot in the cell four weeks earlier. There are 16 female detainees held in the adjacent cell.

33. **Eriemiatoe Bright**, aged 26, Benin City, Edo State. On 26 February 2007, he was arrested at Barbeach and brought to the CID. On 2 March in the evening, he was tortured by four officers for almost two hours: suspended upside down in the “torture room”, beaten with a stick and a metal baton. He confessed, and was then brought to the cell behind the Human Rights Desk for medical treatment. Severe skin injuries were still visible at the time of the visit of the Special Rapporteur. He reports that torture is regularly practised.

34. **Jakson Onyeukw**, aged 24, Lagos. On 19 February 2006, he was arrested by the Special Anti-Robbery Squad (SARS) in Ikeja, Lagos, on suspicion of having stolen Naira 11 million. Four days after the arrest he was shot with an AK-47 in his left and right foot by an officer named Kopra Friday. Denied medical treatment, Mr. Onyeukw treated himself in the cell by using a candle flame to cauterize his wound. He remained in incommunicado detention for three months, and his bank account and property were seized. From SARS he was transferred to CID Panti where he is awaiting trial.

35. **John Olugmade.** He reported that it was common for other detainees to be forced by the guards to torture each other. Very little food is provided and the detainees must pay for what they receive; the detainees are starving. One person died recently. He reported that suspected armed robbers are perceived as less than human by the officials.

B. “Torture room”

36. The “torture room” is located in “Ojo Adekolu Hall D9”, which is a separate bungalow behind the main building on the premises of the CID. When entering the bungalow, one comes into a large room furnished with desks and chairs where investigators take statements. At the very end of this room, on the left hand side, a doorway covered with a curtain leads to the torture room, which comprises a smaller roofed section, and a larger open-air section.

37. At the time of the visit of the Special Rapporteur some 125 individuals, including three women, and children as young as eleven years, were detained under extremely inhuman conditions. The room was heavily overcrowded, extremely hot, humid and filthy. Detainees had to sleep directly on the earth floor or on small pieces of cardboard. A makeshift hole in the ground served as a toilet. The smell was unbearable, even more so by the stench of one injured detainee’s decaying foot. None of the detainees had seen a lawyer, judge, or been able to contact family members, although some had been there for more than two months. Food, provided on the basis of bribes to the guards, is insufficient and of poor quality. People were found to be starving.

38. Almost every detainee in this room had serious physical marks of torture, ranging from skin injuries inflicted with a heated machete or from a beating with a metal bar to cases of untreated gunshot wounds.

39. Detainees reported that they were forced by officers to torture each other: on the ground face down, the hands and feet of the victim are bound together behind their back, from which they are raised and left suspended from an iron bar. To increase the pain, the victim’s back is weighed down with a heavy engine part, which was found in the room. This practice takes place in front of the other detainees, including children, with the aim to threaten and intimidate them. The Special Rapporteur found in the cell metal bars and other instruments whose shapes corresponded to detainees’ injuries. It was reported that one person died in the cell shortly prior to the Special Rapporteur’s visit.

40. **Bayo Abdur Mohammed Adekunk**, aged 22, Kwara State. He has been detained at the CID for about two months. At the time of the visit of the Special Rapporteur it was clear, given that he was provided no medical attention, that he was at risk of life-threatening complications arising from a gunshot wound sustained in connection with his arrest. His foot was in an advanced state of decay and he was in urgent need of an amputation to save his life.

41. **Elijah John**, aged 43, Abia State. He was shot by police during arrest, and at the time of the visit of the Special Rapporteur it was apparent, given that he was provided no medical attention, that he was at risk of life-threatening complications arising from his gun shot wounds. He was detained in the torture room and placed adjacent to the toilet.

42. **Ernest Gryson**, a United States citizen. He was held in the torture room in handcuffs.

43. **Eleven-year-old boy.** He had been detained for two weeks in the torture room. He was too weak to stand and complained of hunger.
44. **Goke Olawale.** He demonstrated the torture methods used by the CID officers. He reported that that IPO who tortured him is Sgt Dickson.
45. **Ms. Tokonbo Akinoele.** She was detained with two other women among approximately 120 male detainees. She did not complain about any harassment from the male detainees.
46. **Ms. Shuttuola Wasilat.** She reported that IPO Friday tortured her.
47. **Ms. Jamiu Sikiry.** Another female detainee in the torture room.
48. **Recommendations.** In his debriefing, the Deputy Commissioner stated that the officials “would try not to torture”, however the detainees in the torture room were not “normal criminals”, but armed robbers. The women in the room were reportedly not detainees but in the process of being screened, and that due to a lack of space they are locked up with men. The Deputy Commissioner assured that the severely injured persons, Mr. Abdurmo Adekunk and Mr. John, would immediately receive proper medical care and no detainee would have to fear reprisals for having spoken to the Special Rapporteur.
49. By telephone on 10 March 2007, the Special Rapporteur made a direct plea to Mr. Sunday Ehindero, the Inspector General of Police, for urgent medical treatment, and assurances were received in this regard (in addition, follow-up letters were sent on 6 and 27 April). Appeals for assistance were also sent to the Controller General of Prisons, the Minister of Justice/Attorney General, as well as the President of the Republic.
50. A visit on 3 April 2007 by United Nations officials found the “torture room” in CID Pantí emptied. According to the officers in charge Mr. John and Mr. Abdurmo Adekunk were brought to court shortly after the Special Rapporteur’s visit. The District Court Chief Prosecutor, Magistrate Court Yaba, indicated that Mr. Abdurmo Adekunk (case file C 26/07) was sentenced for armed robbery and imprisoned at Ikoyi Island Prison, Lagos. However, upon inquiries by the Lagos Prison Controller, the Head of Ikoyi Prison reported that Mr. Abdurmo Adekunk did not appear on the current list of inmates. Furthermore, according to the files of the Investigating Police Officer, CID Pantí, on 12 March 2007, Mr. John’s case (charge number - N/23/2007) was transferred to Magistrate Court No. 12, Ebute - Meta, Lagos. However, to date, no records related to this case ever reached the court.
51. On 21 May 2007, on the occasion of the InterAction Council of Former Heads of State and Government in Vienna, the Special Rapporteur raised the case of the above men with President Obasanjo. On 28 May, President Obasanjo wrote to the Special Rapporteur to assure him of the assistance of the IGP in the follow-up to these cases. On 6 June, the Special Rapporteur reiterated his appeal for information on the situation of these detainees to the newly inaugurated IGP, Mr. Mike Okiro. By letter dated 14 September 2007, the Government

stated that it is “committed to unravelling the circumstances leading to and surrounding the deaths, which it has established, of two of the detainees, namely; Mr. Elijah John and Mr. Bayo Abdurmo Adekunk. Their deaths are presently being investigated and the Government is committed and determined to hold all these found guilty, accountable.”^a

52. The Special Rapporteur recommends that independent investigations of all those responsible for the appalling conditions in the “torture room” and of torture allegations be carried out in order to bring those responsible to justice (i.e. the alleged perpetrators; those senior officers who were under a duty to investigate as soon as there were reasonable grounds to believe that acts of torture had been committed, including the Commissioner and the Deputy Commissioner; and the medical staff at the CID for denial of medical treatment). The authorities should ensure that separation of males and females, as well as adults and children, is rigorously implemented.

V. PORT HARCOURT PRISON, PORT HARCOURT, RIVERS STATE (VISITED ON 7 MARCH 2007)

53. The Special Rapporteur was received by Mr. B. K. Bogunjoko, the State Controller of Prisons, Rivers State, Mr. A. B. Olusola, the Chief Inspector of Prison, and Mr. Alpheous Ottan, the Duty-Officer. Built in 1918 and one of the largest in the country, the prison was originally built to house 804 inmates. On the day of the visit of the Special Rapporteur, the total number of detainees was 2,420, served by about 194 staff. Ninety-two per cent of the inmates are pretrial detainees; 4.5 per cent are facing the death penalty; and there were a total of 19 female detainees, who are locked up in a separate wing.

54. **General conditions and treatment in detention.** According to the Chief Inspector of Prison disciplinary measures are set out in the prison regulations and include flogging as well as detention in a punishment cell. Corporal punishment is inflicted for the offence of bodily harm against an inmate or warden or participation in a prison riot, and requires the consent of the prison’s doctor. According to the official, the last caning was carried out two years ago. Solitary confinement is only possible for up to two days. Reportedly, there has been one case of staff misbehaviour which has been sanctioned with extra-duty. Detainees can leave the cells from 9 a.m. to 1 p.m. The Special Rapporteur notes with concern that staff members have not received any salary for already three months.

A. Death row

55. The 110 condemned prisoners are detained in four different cells. Similar to other prisoners, they can leave their cells from 10 a.m. to 1 p.m. However, they are not allowed to leave the vicinity of their buildings. Since a mass jailbreak in 2005 they are excluded from participating in recreational or vocational activities. Like other cells, death row cells are severely overcrowded and lack all basic facilities.

^a However, on 20 September 2007, in a meeting with the Special Rapporteur in Geneva, the Permanent Representative of Nigeria informed him that Mr. John and Mr. Adekunk were subsequently found to be alive and have received medical treatment. Despite repeated requests for details of their situation, including their whereabouts and medical treatment reports, no information has been provided to date.

1. Building B/13

56. **Anthony Machaku**, aged 43. He has been a detainee on death row for 10 years.
57. **Jeffry Ogidi**, aged 65. He has been a detainee on death row for 10 years.
58. **Ujochukwu Ngokmo**, aged 34. He has been a detainee on death row for eight years. He requires eye surgery.
59. **Usen Okon**, aged 48. He has been a detainee on death row for eight years. He suffers from tuberculosis.
60. **Desmond Onovuju**, aged 40, Imo State. A detainee on death row, he was detained in Cell 1.

2. Building A/3

61. **Ishmalia Illaya**, aged 27. In 2002, he was sentenced to death for murder. On 6 January 2007, he was sentenced to six lashes for the destruction of a mobile phone. According to the punishment book the medical officer did not deem him fit enough for the punishment. The lashing took place in the yard under the mango tree with a koboko (three-braided cow-hide whip). Mr. Illaya claims to have been punished for having smoked a cigarette and that, at the time of the incident, he had been taken immediately out of his cell and beaten by the warders.
62. **Samson Nnumita**, aged 97, Imo State. He was arrested in 1997, and convicted in 2003. At the time of the visit of the Special Rapporteur, he was in a very poor state of health. Since he was unable to walk, other detainees carried him to the door so that he could speak with the Special Rapporteur.
63. **Uchennea Machukw**. A detainee on death row, he was arrested in 1985, and convicted in 1995 in Owerri.
64. **Obina Okoronkwo**. A detainee on death row, he refers to the jail break on 17 July 2005, in which none of the condemned prisoners participated. The announcement by the President of a moratorium on death sentences in recent years had not led to commutations of sentences of condemned prisoners in Port Harcourt.
65. **Ogbuna Chukw**, aged 55, Ebonyi State. A detainee on death row, he was arrested in 1986 and sentenced to death on 21 May 1990. He has spent 17 years on death row.
66. **Atteyen Okon**, aged 33, Akwa Ibom State. A detainee on death row, he complains about the exclusion of condemned prisoners from sport and other recreational activities since the jail break in 2005, even though condemned prisoners did not participate.
67. **Patrick Okonekary**, aged 31. A detainee on death row, he was arrested on 16 December 1997, and convicted in 2005. He complains about the lack of sport activities, and the poor quality and insufficient quantity of food.

68. **Anthony Okoro**, aged 62, Imo State. A detainee on death row, he was arrested on 11 October 1987 and convicted in 1997.

B. Reception cell; new arrivals

69. Newly arrived detainees are locked up in the reception cell which is located next to the football pitch. The cell was severely overcrowded with approximately 60 detainees - some of them children - locked up. There are only 18 bunk beds and one toilet. The majority of detainees have to sleep sitting on the floor, because there is not enough space for them to lie down on the ground. Detainees reportedly have to pay Naira 50 to the prison wardens to shower. Guards retain money from visiting family members and make prisoners pay for food. A meal of beans without any sauce is served three times. Some detainees have been in the reception cell for more than one year, although the stay is meant to be temporary until processing of the detainee has been completed.

70. **Engineer Nakinaki**, aged 39. A debtor, he has been detained in the reception cell since March 2006. He complains of the bail terms that are impossible to meet. He reports that children are regularly detained in the cell together with adults.

71. **Fountain Aneke**, aged 21. He has been detained in the reception cell for two months. On 12 January 2007, he was arrested on suspicion of armed robbery and was detained for 11 days at Borikiri SARS station. His hands were tied together with marine rope and he was suspended from the ceiling for 30 minutes. He was flogged on his back with a machete and a stick for 40 minutes, and later was shot in the leg by the ASP. He was threatened with death and forced to sign a statement. He did not receive medical treatment and his gunshot wound became infected. His lawyer brought him medicine but the officers at SARS would not give it to him. His next court appearance was expected to be on 28 March 2007.

72. **Chibundu Wle**, aged 18. In September 2005, he was arrested by police on suspicion of armed robbery and taken to Rumukoro Police Station, Port Harcourt. He was detained for six months incommunicado and was flogged by the IPO. He has been detained in the reception cell in Port Harcourt Prison for one year now and has not been subjected to ill-treatment. He has had no visits, though his family is aware of his detention.

73. **C.O.**, aged 14. In June 2006, he was coming home from school when he was shot in the stomach by police in pursuit of armed robbers. He was arrested and first taken to the State Intelligence and Investigation Bureau (SIIB). Then he was brought to the local hospital, where he had surgery. He was taken back to SIIB, and despite medical reports he was refused further medical treatment. He has been detained in the reception cell for eight months. He complains of continuing severe pain. The detainee can hardly walk due to his medical condition, and is assisted by fellow inmates. He has been visited by his sister.

74. **I.N.**, aged 15. On 15 November 2005, he was arrested, and brought to SARS, where he was detained incommunicado for six months. During the interrogation, he was handcuffed, he was hung from the ceiling from his shoulders, and he was flogged with a machete. He has been detained in the reception cell of the prison for about one year. He was not ill-treated in prison. He has not had any contact with family.

75. **O.I.**, aged 12. He has been detained for four months in the reception cell awaiting trial. On 7 October 2006, he was arrested and later detained for two months at Rumukoro Police Station, Port Harcourt, in connection with the death of his classmate. He reports he was beaten. He receives weekly visits from his mother. He complains that he misses his education. He reports that the detainees were aware of the visit on Saturday.

76. **Rev. Larsson Fred**, aged 43. He has been detained in the reception cell for six months, and prior to that he was held for three months at the office of the EFCC, Port Harcourt, in connection with financial crimes. He complains that bail is often set for which one cannot meet the conditions.

C. Female detainee wing

77. The wing is in a very good condition. The cells are clean and every detainee has a bunk bed. There is one convicted prisoner and 13 pretrial detainees guarded by 17 female prison guards. According to the detainees, they can leave their cells from 8 a.m. to 1.30 p.m. and are allowed to engage in activities, such as sewing etc. The guards here report that caning is not practiced anymore and the last instance of solitary confinement was imposed a long time ago. Guards have received some training by a human rights NGO and became sensitised not to cane.

78. **Rachael Dawari**, aged 26. On 7 September 2006, she was arrested on suspicion of murder, and taken to CID Port Harcourt. She was detained for one week in a separate women's cell. During the interrogation by two male police officers, she was handcuffed, beaten with a machete and forced to sign a statement. In prison she was not subjected to ill-treatment, but separation is allegedly used as disciplinary measure. Voluntary work and visits are possible in prison. The detainees are allowed to stay outside their cells from 8 a.m. to 1.30 p.m. She has not seen her son since her arrest. She receives support from Female Legal Aid, but has no lawyer. She is awaiting trial.

79. **Christiana Emenike**, aged 45, Imo State. On 25 September 2006, she was arrested on suspicion of drug-dealing. Subsequently on 6 November, she was sentenced to 20 months' imprisonment for drug-dealing. Prior to detention in Port Harcourt Prison she had spent five weeks in NDLEA Women's Cell in Port Harcourt. She was beaten by NDLEA officers (a male and female). In prison, she was not subjected to ill-treatment. As a disciplinary measure, she reports that she has had to clean toilets. She gets regular visits from her children, who bring her food.

D. Psychiatric unit

80. The unit for detainees with psychiatric conditions is located in the women's wing. When visited by the Special Rapporteur the cells were clean and empty. According to the prison guards the cell is not used anymore.

E. Infirmary

81. There are two doctors and 13 nurses working in the infirmary. Reportedly, many detainees suffer from tuberculosis and/or malaria as well as HIV/AIDS. The supply of drugs is generally

insufficient. There are no drugs for the treatment of tuberculosis available nor X-rays. There have been three deaths in total this year.

82. **O.O.**, aged 16. Awaiting trial in Port Harcourt Prison for six months, he is currently in the infirmary.

83. **Alfredo Okike**, aged 72. In May or June 2006, he was arrested in connection with a land dispute with his brother, and is awaiting trial. He has been in the infirmary for nine months, since he arrived to Port Harcourt Prison.

84. **Rufus Awyuwuk**, aged 77, Imo State. He was detained in 1996, and convicted in 2003. He suffers from diabetic, hypertension, and needs medical treatment.

85. **Recommendations.** As a priority, the Special Rapporteur recommends the separation of children from adult prisoners. Pending consideration of alternative measures to detention for the children, they should be transferred to the section for female detainees. The children should be provided adequate educational, vocational and recreational activities, including the use of the library. The Special Rapporteur recommends the release of Samson Nnumita, Alfredo Okike and Rufus Awyuwuk on humanitarian grounds, given their advanced ages and state of health. Detainees on death row should enjoy the same recreational and vocational activities as other detainees.

VI. NIGERIA POLICE FORCE, STATE CRIMINAL INVESTIGATION DEPARTMENT AND CENTRAL POLICE STATION, PORT HARCOURT, RIVERS STATE (VISITED ON 7 MARCH 2007)

86. The CID and the Central Police Station are located in the same compound. The Special Rapporteur was received Mr. Sunday Kuryas, Officer in Charge of the Central Police Station, Mr. Felix Ogbaidu the Police Commissioner and the Assistant Police Commissioner (female), who was very cooperative.

A. Criminal Investigation Department

87. There are currently over 40 persons in the CID cell. The detainees are forced to buy their own food.

88. **Onyesom Nwamouo**, a civil servant. On 5 March 2007, he was arrested in connection with an altercation involving a soldier and a police officer. He reports no ill-treatment.

89. **Christopher Adefe**, aged 20, Gala Park. On 1 March 2007, he was detained along with two others by 12 police officers on suspicion of selling a stolen handset, and brought to the Mobile Police Office at the CID around 5 or 6 p.m. He described it as the yellow-painted building situated immediately to the right upon entry to the CID compound. He described the interior as 14 x 14 m with a ply-wood division. Their hands were tied behind their backs, and for about an hour, eight officers beat them with machetes, canes, and a horse whip. They signed confessions in the end, and no treatment was provided for their injuries. They sustained numerous lesions, which were still visible at the time of the visit of the Special Rapporteur. He is unable to afford a lawyer. He has been visited by his girlfriend.

90. **Prince Diaku**, aged 22. On 1 March 2007, he was arrested and taken to the police station of Omoku. He reports that he was beaten by an officer with a baton, and struck on the knee with the butt of a gun. He suffers from a large haematoma on his knee, and is unable to move it. His parents are unaware of where he is and he has no lawyer.

91. **Torsi Nunieh**, aged 24, laundry tradesman, Ogoni. On 8 February 2007, he was arrested by police at home on suspicion of stealing Naira 1 million. The police seized his property, including his motor bike, handset, shoes, shirt, and trousers, and Naira 7,800. He was first taken to Bori Police Station, Ogoni, and around 12 February, to the office of the Swift Operation Squad (SOS), Port Harcourt. He was held there for two weeks in a cell with about 15 people. He was then brought to CID. In the first office on the right of the entry gate, he was handcuffed behind his back, his feet were bound with rope, and he was beaten with a baton and machete all over his body. A gun muzzle was pressed to his right shoulder. He last saw his wife on 28 February.

92. **L.A.** On 18 December 2006, he was arrested at his home around 10 am by the “Agip Army” (security services of Agip), on suspicion of stealing oil tools from “Agip Newbase”. He was taken to Bori Camp, where the “Agip Army” commander ordered him beaten with a chair for 30 minutes. On 22 December, he was taken to the CID. Their investigation turned up nothing, and the officers decided that this was a federal matter, and he was transferred to Force CID, Abuja. He was held there for about two weeks. Since nothing was found, he was brought back to Port Harcourt CID for release. However, he remains in detention without charge or having been brought before a judge.

93. **George Elijah**, aged 18, Akwa Ibom State. Around 24 January 2007, he was arrested together with **Prince Akpotu**, aged 22, a driver, Delta State, on suspicion of stealing a handset. They were taken to Bori Camp and held there for about one month. They were beaten with machetes with their hands bound behind their backs. They were then brought to the CID, taken to the office adjacent to the compound entrance. Over a period of five days, their hands were cuffed, heads forced under the table, struck with machetes, batons, and a koboko (three-braided cow-hide whip). They were questioned over the identity of a person. They have not had contact with any family or have had access to a lawyer.

B. Gate house; “engine room”

94. The gate house, or “engine room” - the alleged place of torture - is a yellow-painted building situated immediately to the right upon entry to the CID compound. The interior is approximately 14 x 14 m with a ply-wood division, and consists of three small rooms. The Special Rapporteur met Mr. Ben Awor, Assistant Superintendent of Police, attached to State CID. He denied any allegations of torture or ill-treatment taking place in the building. However, when the Special Rapporteur identified a koboko (a three-braided cow-hide whip of the type which corresponded to the allegations) in the room, he was told by investigating officers that it was an item of evidence in a case. When the Special Rapporteur attempted to photograph it, a plainclothes officer reached in from a window and fled with it. He was later ordered back and the item was photographed.

C. Central Police Station

95. The Central Police Station is a two-floor building with offices on the first floor and eight cells on the ground floor. At the time of the visit, the Officer in Charge was Sunday Kuryas. The cells are overcrowded, dark and filthy. The women's cell (with three detainees) is located within the cells where male detainees are kept. A bucket serves as a toilet. Detainees have to sit and sleep on the concrete floor, and complain about the lack of food.

96. **Young boy.** On a bench in the corridor, a young boy with severe injuries on his legs and arms was found. He was barely able to sit or to stand up and was in need of medical treatment. Officers arrived and intimidated the boy, who subsequently declined to be interviewed and was brought outside of the building under armed guard.

97. **Ms. Niskuk and Idosqeits**, sisters, both aged 23. Since 26 February 2007, they have been detained. The police demands the family pay Naira 20,000 to release them. They are detained in a separate cell together with one other woman. They are not provided food and have no possibility to shower.

98. **Ms. Gertrud Daniel**, aged 20. She has been detained incommunicado for one week, is HIV positive, but reports no allegations of ill-treatment.

99. **Recommendations.** The Special Rapporteur recommends that prompt and independent investigations of all torture allegations be carried out in order to bring those responsible to justice (i.e. the alleged perpetrators including Ben Awor; those senior officers who were under a duty to investigate as soon as there were reasonable grounds to believe that an act of torture had been committed).

VII. NIGERIA POLICE FORCE, CRIMINAL INVESTIGATION DEPARTMENT, GWAGWADE, KADUNA, KADUNA STATE (VISITED ON 8 MARCH 2007)

100. The Special Rapporteur was received by Mr. Ernest Ibhaze, the Commissioner of Police, and Mr. Alkali Usman Yakubu Eway, Assistant.

101. **General conditions and treatment in detention.** Numerous allegations were received indicating that torture was carried out in a specific room, known as the "Panteka", on the left-hand side on the first floor of the CID. There is a general climate of fear, and many detainees declined to speak with the Special Rapporteur, or they ask for confidentiality ("They will kill me if I give you my name."). Detainees reported that the visit was expected and that they were forced to clean their cells some days before. The cells, which are located on the ground floor, are overcrowded and in poor condition. In total 76 detainees are held there. They all have to sit and sleep on the ground, none of the cells are lit, and there is no toilet. Thirty-six detainees were recently shown on a local TV channel, where they had to state that the conditions of detention in Kaduna are good. Those who refused were allegedly tortured. It was reported that a detainee was recently shot dead outside of the cell.

102. **Sunday Agada**, aged 23, Benue State. On 26 February 2007, he was arrested on suspicion of armed robbery and taken to Tafa Police Station. The next day he was taken to the CID, where

he was beaten by a number of officers. He has not received medical treatment for the injuries he sustained, including those on his buttocks.

103. **R. Jale**, aged 20, Kaduna State. On 22 February 2007, he was arrested, and brought to the State CID. In the torture room (Panteka), he was handcuffed, threatened with death, and beaten with a wooden stick for an hour.

104. **Ayo James**, aged 35, Calabar. On 2 February 2007, he was arrested in Kaduna on suspicion of armed robbery, and brought from the police station to the CID. He was tortured for three days, during the daytime for 30 minute to one hour sessions. He was beaten with sticks, cables and a sturdy, long bamboo stick. He eventually confessed after the beatings.

105. **Petrus Umaru**, aged 18, Kaduna. On 16 January 2007, he was arrested on suspicion of robbery. He was initially brought to a police station where he was beaten with a stick before being transferred to the CID later that day. He was tortured in the Panteka for over two days. He was beaten with a heavy bamboo stick for about 40 minutes and threatened with death.

106. **Mohammed “Mame” Bello**, aged 27. He was arrested on 8 February 2007, on suspicion of armed robbery. He was shot by the police in his right leg when he was arrested, and taken shortly thereafter to St. Gerard’s Hospital to get a bandage. He has not received appropriate treatment since then. As a result his wound has become seriously infected and without immediate treatment his life is at risk. He is unable to walk and cannot move from the place he is sitting (in the corridor between the cells). He has no lawyer and is held incommunicado. In the subsequent debriefing meeting, the Commissioner of Police explained the lack of medical treatment by the lack of financial resources. His assistant, Mr. Eway, however asserted that the detainee was brought several times to the local hospital, though this was proved to be untrue upon examining Mr. Bello’s files. The case of Mr. Bello has been included in the communications sent in relation to the two severely injured detainees at CID Panti, Lagos (see para. 44 of the annex). By letter dated 14 September 2007, the Government informed that Mr. Bello was alive and in prison custody in Kaduna. A photograph and medical certificate of Mr. Bello following his treatment was also provided by the Government.

107. **Samaila Adamu**, aged 27, Fulani, Kaduna State. On 2 March 2007, he was arrested in connection with the theft of a cow. During his interrogation at the CID, in the “torture room”, he was beaten with a wooden stick and was raised to a height of about two metres by three policemen and released. He was forced to sign a confession. He has not been taken to court yet.

108. **Aboal Hassan**, aged 17, Kaduna State. In July 2006, he was arrested on suspicion of burglary, and taken to the CID Station. He was interrogated in the Panteka. Over the course of four days he was beaten, and whipped. His hands and feet were bound together and he was suspended and swung from the ceiling for 15 minutes at a time. He was forced to sign a statement. He has been to court twice, he has no lawyer, and his family is not aware of his whereabouts.

109. **Danladi Hamadi**, aged 35. In December 2006, he was arrested about 40 km outside Kaduna on suspicion of vandalizing oil pipelines. He was shot in his left leg and taken to Gwagwade Police Station. He was beaten with a wooden stick on his wound. After one day he was taken to Force CID Headquarters in Kaduna, where he was interrogated, but was not

ill-treated. In Kaduna he was brought to the general hospital for treatment, whereupon the doctor recommended him to be hospitalized. The officers refused. He was brought to court in the first week of March 2007, and was granted bail. However, because he has not been able to produce a certificate of security, the bail has not yet been effected.

110. Ms. **Paulina John**, aged 35, a nurse. Since 24 February 2007, she has been detained in the women's cell, and accused of performing an abortion. She reports that she was treating a woman, who was six months pregnant, and who subsequently lost her baby. She was interrogated at the CID, but was not ill-treated. However she was threatened that if she told anyone about her detention she would never be released. She has a lawyer, but police deny him visits. She further complains that she is refused access to toilet facilities.

111. **Recommendations.** The Special Rapporteur recommends that immediate medical assistance be provided to injured detainees, in particular to Mr. Bello. The Special Rapporteur recommends that prompt and independent investigations of all torture allegations be carried out in order to bring those responsible to justice (i.e. Commissioner of Police Ernest Ibhaze, his assistant Alkali Usman Yakubu, the Officer in Charge, as well as Sergeant Danlame, from Wakawa, Sabu Police Station, who had been identified by several detainees as a perpetrator of torture).

VIII. KADUNA MEDIUM SECURITY PRISON, KADUNA, KADUNA STATE (VISITED ON 8 MARCH 2007)

112. The Special Rapporteur was received by Mr. Momodu, the Controller of Prisons, Mr. Patrick Ondoma, Chief Inspector of Prison and his staff. Kaduna Prison was built in 1915 for an inmate population of 547. On the day of the visit, the population was 959, which is served by 224 staff. Sixty-three percent of the detainees are awaiting trial; 11 percent were on death row, including one woman; and there were ten women detained in total.

113. **General conditions of detention and treatment.** The Special Rapporteur had a comparably good impression of the prison. The facilities are clean; detainees get enough food and have the possibility for recreational or vocational activities (except those who are condemned). With the exception of some allegations on ill-treatment in the women's wing, he did not receive any strong allegations of torture committed inside the prison. There seems to be a consensus among the staff not to inflict corporal punishment. At the time of the visit, 104 condemned prisoners were held in the prison (Building 5, and in cells next to the gallows), many of them already for more than 10 years. Two condemned prisoners were convicted on the basis of Sharia law. While he did not receive any explicit allegations of torture, detainees complained to the Special Rapporteur that they are barred from participating in any educational, vocational or recreational activity. The Special Rapporteur was informed that detainees on death row do not know the exact date of their execution, leaving them under constant fear that they could be taken to the gallows at any moment. Visiting family members are left in doubt whether their visit has been the last one and do not have the possibility for a final goodbye. Furthermore, the body of the executed is not returned to the family for a funeral, but kept as a property of the State. Condemned prisoners in cells next to the gallows receive significantly more food than other detainees. All detainees have to pay for the arising expenses if admitted to the prison's hospital. According to the prison authorities, detainees are punished with solitary confinement of up to three days for disciplinary offences. However, there were allegations that detainees were

held in solitary confinement in excess of three days. Prison staff members have not received any salary for already three months.

114. **Sunday John**, aged 40, Edo State. On 23 July 2004, he was arrested on suspicion of theft. He was brought to CID in Gwagwade, Kaduna where he was detained for five months. He confessed under torture, which included being suspended upside down for almost two hours. He reports that torture is rampant at this CID; he described the torture room on the first floor. At the time of the Special Rapporteur's visit, he was detained in the punishment cell for one day. **Abel Samuel**, Edo State. He was also arrested in connection with the above case. He was shot by officers during the interrogations. The perpetrators were alleged to be Officers Backfire, Yayabos, Bako, and Ajeogo.

115. When conducting interviews with those detainees who were held in the punishment cell, the Special Rapporteur found a **teenage boy**, who was locked up in the cell, additionally shackled on the feet, and apparently suffering from a strong mental condition. Due to his confused state it was not possible to receive clear information from him. It is the Rapporteur's opinion that the boy should be seen by a competent psychiatrist and the shackles removed.

116. **Albert Emem**, aged 24, Anambra State. In November 2005, he was arrested in Jos on suspicion of robbery. He was detained at CID, in Jos, for two months, and later for one month at the CID, in Kaduna. He reports that he was beaten with a heavy piece of wood in Kaduna. On 19 January 2006, he was transferred to Kaduna Prison. Since May 2006, he has been detained in isolation of the other prisoners as he has had problems with some of them. He can leave his cell from morning until 1:30 pm daily.

117. **Sunday Ikechukwu**, aged 39 years. In 2003, he was convicted for robbery. He is presently in the prison hospital, suffering from a serious dermatological condition, for which he cannot receive appropriate treatment without the necessary medication.

118. **Yusuf Bashair**. In 1998, he was condemned to death for robbery; which was commuted to life imprisonment in 1999. He maintains his innocence.

Female detainee wing

119. When visited by the Special Rapporteur there were 10 women detained in this wing, including 2 convicted and 1 condemned. Seven are awaiting trial. The general conditions of the facility are good. However, the Special Rapporteur received allegations of inhumane and degrading treatment, according to which women had been chained to their bed for up to three days. Furthermore, prison staff had been accused of seizing presents received from visitors.

120. Ms. **Zainab Yahaya**, aged 31. For the last two years, she has been detained awaiting trial for charges of fraud. Prior to this, she has been detained on numerous occasions for up to several weeks at Metro Police Station, Kaduna. On these occasions, she reports that she was arrested and rearrested by Sergeant Haruna, who brought her to a warehouse and attempted to rape her. The police seized her property. At the police station, she was handcuffed, suspended naked from a pole resting on two tables and beaten up. She reports that she was pregnant at the time and lost her baby as a result. The prison doctor wrote a letter recommending her release, which was supported by the prison director and prison controller. She was granted bail, however the amount

of Naira 1.7 million in cash is not a condition that she can meet. She reports that all the witnesses that have been produced against her by the complainant are members of the police.

121. Ms. **Halima David**, aged 38, Kaduna State. She has been awaiting trial already for six years for killing eight children. After her arrest she was taken to the CID, where she was detained for one month. She was beaten by a female police officer, forced to swallow teargas, and fainted as a result. She cannot recall signing a statement. She reports that she was pregnant at the time, lost the baby, was not provided medical treatment, and had to buy medicine with her own money. In prison she was beaten by male and female officers. However things improved with the arrival of the new prison director. She has had no contact with her seven children, and does not know where they are, since her husband died while she was in prison. She cannot afford a lawyer.

122. Ms. **Raby Ismail**, aged 36 years. She is detained in Kaduna Prison, awaiting the outcome of her appeal to the Court of Appeal, Kaduna. Prior to this she was awaiting trial in Kano Prison for two years before she was sentenced by the High Court of Kano (No. 11). She has a lawyer from Kano.

123. **Recommendations.** The Special Rapporteur recommends that condemned prisoners be permitted to participate in the recreational, vocational and educational activities available to other detainees. All cases of ill-treatment in the women's wing, should be fully investigated, leading to disciplinary measures and criminal prosecution against the perpetrators.

Appendix II

By letter dated 14 September 2007, the Nigerian Government provided comments to the preliminary version of the report transmitted to it on 9 July 2007:

1. I write in fulfilment of Nigeria's commitment to the Human Rights Council and in acknowledgement of the final draft report submitted by Mr. Manfred Nowak, Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on his visit to Nigeria from 4 to 10 March 2007. The Federal Government of Nigeria wishes, on behalf of the people of Nigeria, to thank the Special Rapporteur for the painstaking effort which he has taken to detail the findings of his visit in the report.
2. As a state party to the majority of the international human rights instruments, including the Convention on Torture, and as a member of the Human Rights Council, Nigeria remains firmly committed to the promotion, protection and advancement of human rights, as well as to the special procedures mechanism of the Committee against Torture, which affords members the opportunity to evaluate and review, through independent and impartial observers, the human rights records of all members. Indeed, we consider it to be consistent with the objective of this administration to promote a Rule of Law environment that will deepen our democracy. It is against this background that the visit of Mr. Manfred Nowak, Special Rapporteur on Torture, was undertaken at the invitation and support of the Federal Government of Nigeria. We are gratified that the Special Rapporteur highlighted the cooperation he received during his visit, including at the highest levels.
3. The principal aim of the visit was to 'assess the situation of torture and ill-treatment in Nigeria' and to 'offer assistance to the justice, police and prison sectors' in the Government's effort to fulfil its commitments under the Convention, in a way that enables the Nigerian Government to correct, improve and strengthen its observance of human rights requirements in governance. It was clear to the Government that to achieve these the inquiry had to be open, unfettered and objective. It is indeed quite gratifying to note that the Special Rapporteur in his report acknowledged the commitment and willingness of the Nigerian Government to subject itself to the universal periodic review. He also acknowledged the country's commitment to establishing the necessary legal framework for the promotion and protection of human rights, through the signing, ratification and domestication of various international and regional instruments.
4. The only hitch during the visit was in connection with the Special Rapporteur's inability to inspect the holding cells of the Directorate of State Services (DSS). The Government views this hitch more as an administrative lapse rather than a deliberate attempt to conceal anything from him. The Special Rapporteur arrived at the location without prior knowledge on Sunday night; the low-level cadres he met had neither authority nor instruction to let him into the facility. However, in spite of the need for free and unfettered access to places of concern and interest, it is the view of the Nigerian Government that these visits be properly coordinated to achieve the desired results. The Government regrets this unfortunate incident, which it hopes can be avoided in future through proper coordination and communication.

5. The Government notes with satisfaction that the Special Rapporteur has accorded due significance to the enormous challenges faced by the State, such as the size of the population and country, ethnic and religious diversity, high level of crime, poverty, federal character, etc. in addressing developmental, human rights issues and crime in the country. While the Government does not intend to justify torture and ill-treatment under any circumstances, it is hoped that the international community understands the enormous challenges faced by law-enforcement agencies in a developing nation as our own. Some of these challenges are highlighted in the Special Rapporteurs report and may have a direct correlation with his observations on the attitude of the police to suspects; the lack of an effective complaints mechanism; the unsatisfactory state of detention facilities; the under-resourced and over-stretched criminal justice system; Sharia Law and corporal punishment, etc.

6. Whereas the Government takes the various conclusions reached and recommendations made by the Special Rapporteur in good spirit and good faith, it takes serious exception to the sweeping generalization on the alleged widespread nature and application of torture in the Nigerian Police and the Criminal Investigation Department (CID) formations, based on his visits to only three police posts (out of more than 3,000 around the country), notably in Abuja, Kaduna and Lagos. The Government is of the view that the conclusion is indeed too sweeping and generalized. It is not logical to use information from a small sample (in this case less than 0.1 per cent) to reach a universal conclusion.

7. It is also important to underscore the fact that Police officers are accountable and that they do not operate with such impunity as suggested in the report. The Police Service Commission, the National Human Rights Commission, and various disciplinary organs at respective police formations, are empowered to examine and address these excesses when they are reported. Such disciplinary actions are reported regularly in the vibrant Nigerian press. This notwithstanding, the Government welcomes the recommendations made by the Special Rapporteur to increase the training received by the police and to broaden their sensitivity and awareness on human rights issues. It would be pleasing to note that bold steps are already being taken to train and reposition the police along this path. The human rights desk, already established in every police station and command is to ensure that the rights of the accused are respected and the rule of law applied in the administration of law and justice.

8. The Government also views, with grave seriousness and importance, the concerns raised by the Special Rapporteur about the fate of three detainees who he interviewed and whose whereabouts became unknown shortly after his visit, which made him to conclude, again without any reasonable basis, that extrajudicial killings were 'widespread' across the country. The Government recognizes the negative effect the fear of reprisals by interviewees will have on the entire review process and is therefore committed to unravelling the circumstances leading to and surrounding the deaths, which it has established, of two of the detainees, namely; Mr. Elijah John and Mr. Bayo Abdurmo Adekunk. Their deaths are presently being investigated and the Government is committed and determined to hold all these found guilty, accountable. On the other hand, the Government is pleased to report that the third detainee, Mr. Mohammed Bello, is alive and in prison custody in Kaduna.

9. While appreciating the concern for the safety and welfare of the detainees shown by the Special Rapporteur, the Government rejects the conclusion of the Special Rapporteur, based only on these two isolated cases, that extra judicial killing is a widespread practice across the country.

It must be underscored that the Special Procedure process is designed to assist members to improve, promote and/or strengthen their human rights capacity and records. For this reason, disparaging remarks and conclusions which are largely unsubstantiated must be avoided especially in the interest of objectivity and fairness.

10. Nigeria welcomes the recommendations made in the report for the decongestion of its prisons and the improvement of the welfare of the prisoners. The Government is pleased to confirm that it has, as part of the decongestion process, released all prisoners over 60 and 70 years old, as well as all prisoners on death row who have served for more than 10 years. The Government has also built new prisons and is committed to the building of additional prisons, in the broader interest of improving the detention condition of detainees and inmates.

11. Finally, the Nigerian Government finds the Special Rapporteur's report useful and would endeavour to incorporate some of his recommendations in its broader plan of completely eliminating torture and ill-treatment in law enforcement. The Government also recognizes the continuous nature of this evaluative process and therefore welcomes the call made by the Special Rapporteur on the international community to support and assist in the building of capacities that would enable the country attain and reach the noble objective of projecting and promoting the highest standards of human rights.

Ojo Maduekwe, CFR
Hon. Minister of Foreign Affairs
