

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 58/14, 51/8, 54/14, 53/4, 53/12, 50/6, 53/9, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the prolonged arbitrary detention of hundreds of individuals for terrorism-related offences, as well the opacity of the procedures concerning their arrest, detention, and prosecution or release.

We acknowledge that terrorist groups, in particular Boko Haram, represent a major security threat to Nigeria and neighbouring States. We note with deep concern that Boko Haram and other armed groups have carried out devastating attacks on civilians, infrastructure, and security forces in Nigeria and the region, leading to widespread fear and insecurity. Over 3 million people are also currently internally displaced as a result of terrorism and counter-terrorism operations. Moreover, these groups have actively recruited and kidnapped children, especially girls, engaged in trafficking in persons, forced recruitment and the use of child soldiers and have committed sexual and gender-based crimes, such as rape, forced marriage, and sexual slavery, as well as forced labour.

We recognise the efforts made by your Excellency's Government and the challenges it faces in preventing and countering terrorist threats. However, we reiterate that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but are complementary and mutually reinforcing.¹ Respect for human rights treaties and standards are essential components of any effective counter-terrorism strategy, including by building public trust and confidence and assisting and protecting

¹ See Security Council resolutions 1535(2004), 1456(2003) and 1624(2005). See also A/HRC/16/51, paragraph 8 and the resolutions of the General Assembly, in particular A/RES/60/158, paragraphs 1, 7, 13 and A/RES/60/288, section IV.

victims of terrorism. In line with Pillar I of the United Nations Global Counter-Terrorism Strategy, we encourage the Government to also address the conditions conducive to terrorism and violent extremism, which may include “prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization and lack of good governance”.

According to the information received:

2017-2018 terrorism trials

In October 2017, the Government of Nigeria commenced the trials of around 6,000 individuals, who had been held in prolonged detention, some since the onset of the conflict in 2009, on suspicion of involvement in terrorism-related offences in Borno State, in North-East Nigeria. Most of the charges brought against these individuals pertained to terrorism financing and the provision of material support to terrorists, including the supply of food and money to suspected Boko Haram members, under the Terrorism (Prevention) Act, 2011, as amended in 2013 (“CT Law 2013”).

Under Nigerian law, all terrorism-related criminal cases fall under the jurisdiction of the Federal High Court. Consequently, following mass arrests in 2017, the authorities held a series of special hearings of the Federal High Court to address these cases and to process the backlog of earlier cases. The hearings of 1,669 suspects took place in Wawa Military Cantonment in Kainji, Niger State, between October 2017 and July 2018. Niger State is in the central west of Nigeria and located about 1,000 km from Borno State.

Grave concerns have been raised regarding the widespread violations of fair trial rights throughout these proceedings. The trials were reportedly held behind closed doors, with no access granted to independent observers, excluding the media, human rights and non-governmental organisations as well as the general public. Victims of terrorism, including communities, were allegedly excluded from observing, testifying and providing evidence. The trials were reportedly very brief, some lasting less than 15 minutes, with charges framed in vague terms lacking essential legal details as the nature, date, date, location and details of the alleged offence. Some defendants reportedly did not receive notice of the charges against them until the day of the hearing.

While some suspects were prosecuted individually, others were tried in groups, sometimes without considering whether they had been coerced into committing the offences for which they were being tried. It is further alleged that the large number of defendants accused of providing “material support” to a terrorist group made it difficult to focus resources on prosecuting those charged with more serious offences. There were also reports of previously discharged defendants being charged again for the same offences, undermining the principle of *ne bis in idem* (protection against double jeopardy). Additionally, weak evidentiary foundations led to a systematic overreliance on confessions, some of which were allegedly obtained under duress, casting

doubt on their voluntariness and the integrity of the proceedings.

Although all accused had access to public defenders, they were reportedly not permitted to retain private counsel of their own choice. In many instances, some defendants reportedly did not meet their assigned lawyer until the day of the trial, and some lawyers appeared unprepared and unfamiliar with case materials. This reportedly resulted in the failure to present evidence or call any relevant witnesses other than the defendants. Other concerns included a lack of official qualified interpreters, with untrained individuals often performing that critical function.

The subsequent phases of the Kainji hearings in February and July 2018 saw some improvements, including increased access for national and international monitoring organisations. However, concerns about due process and fair trial persisted. In only a limited number of cases (seven out of sixty), prosecutors from the Federal Ministry of Justice brought charges for murder, kidnapping, attacks in places such as Damaturu, Bama, and Baga in 2015, and the abduction of 276 schoolgirls in Chibok in April 2014. However, the majority of defendants were reportedly prosecuted solely for non-violent acts or providing “material and non-violent support” to Boko Haram, such as repairing vehicles, laundering clothes, or providing food and other items, frequently under duress or fear of reprisals.

Over the course of the 2017-2018 Kainji hearings: (a) 366 defendants were convicted and sentenced to imprisonment for terrorism-related offences, primarily based on confessions and guilty pleas; (b) 421 defendants pleaded not guilty and were referred for further trial; and (c) 882 individuals had their cases dismissed due to insufficient evidence.

Despite the dismissal of charges, approximately 800 individuals remained in detention in the military facility. The court reportedly ruled that these individuals should first complete a preventive “deradicalisation programme” prior to their release, citing concerns that their prolonged detention could have fostered radicalisation. However, the court provided no clear criteria for these rehabilitation measures, nor any legal basis for their imposition. At the time of sentencing, the Nigerian prison system did not have any deradicalisation programme in place.

Consequently, these defendants have remained in detention without any clear legal basis for almost seven years since their acquittals in mid-2018. In some cases, defendants have already spent up to four years in military detention prior to the trial, resulting in a cumulative deprivation of liberty lasting as long as 11 years. The detainees have been allowed only minimal contact with the outside world, including very sporadic communication with their defence lawyers and the Nigerian Human Rights Commission. Reportedly, the Government of Nigeria refused to release information to family members related to these cases, and very little is known about the number and identity, the fate and whereabouts, the conditions of detention, and the proposed date of release of these individuals.

2023-2024 terrorism trials

Most recently, and to reduce the backlog of previous cases, the Federal High Court held four rounds of terrorism hearings in December 2023, March, June and July 2024, respectively, the latter conducted at the Giwa Project facility in Kainji. Although the standards of due process have reportedly improved, there have been reported legal shortcomings, with the Nigerian authorities failing to prioritise the prosecution of those bearing the greatest responsibility for the atrocities committed by Boko Haram and ISWAP. In some instances, children as young as ten years old have been prosecuted, in contravention of international human rights standards. Furthermore, significant numbers of detainees remain in pre-trial military detention in overcrowded, unsanitary, and unsafe conditions, without adequate access to judicial review or legal counsel.

It is reported that in many instances, the prosecution requested that the charges to which the defendants pleaded “not guilty” be dismissed and that sentencing only proceed regarding offences to which guilt was admitted. The terrorism-related sentences usually involve imprisonment for a specified number of years “from the date of arrest at a designated place by the Controller of Prisons” and include a rehabilitation requirement. This means that for the individuals arrested and detained during the 2013-2017 period, many have effectively served their full terms in military custody at the Joint Investigation Centre at Giwa Barracks, Maiduguri, or at the Giwa Project, Kainji, and they should now be eligible for release and rehabilitation.

It is estimated that about 400 defendants who had recently completed their sentences were reportedly transferred to a federal Disarmament, Demobilization, Rehabilitation, and Reintegration (DDRR) programme in Gombe State known as “Operation Safe Corridor”. In July 2024, an additional 500 defendants were moved from the Joint Investigation Centre in Maiduguri to the Giwa Project in Kainji, with those deemed suitable for deradicalisation transferred from Kainji to Operation Safe Corridor in Gombe.

Despite these steps, concerns remain about the lack of transparency and procedural safeguards surrounding terrorism trials in Nigeria. Reports indicate widespread violations of fair trial guarantees at the various stages of detention and transfer of detainees, whether to a detention facility, a deradicalisation programme, or their State of origin for release. It is reported that many people have been detained for several years on counter-terrorism-related charges without access to legal representation, a fair trial, and judicial safeguards, even though their cases have been dismissed. Cases have also been reported where individuals have been held incommunicado for a prolonged period of time, some without proper screening, documentation, and/or case files. The imposition of rehabilitation requirements by the Federal High Court, despite the absence of sufficient infrastructure to support reintegration, further delays release and undermines the right to liberty.

Conditions of detention

According to the information received, many defendants presented to the Court

in the 2023-2024 trials appeared to be malnourished. Conditions in the Giwa and Kainji military detention centres are reportedly very poor, including inadequate food, fresh air, water, hygiene, and medical care.² Children are reportedly not separated from adults. Even at Operation Safe Corridor, where conditions are reportedly better, there are reports of occasional food shortages and uncertainty about when detainees might be reintegrated into society.

Conditions in military detention have been so poor that from 2011 to 2021, around 10,000 detainees allegedly died from starvation, thirst, disease, torture, and lack of medical assistance, with no independent investigations into these deaths (A/HRC/47/33/Add.2, paras. 36 and 37). There are reports of numerous videos of emaciated corpses brought from Giwa Barracks to a mortuary and detainees reported witnessing deaths (A/HRC/47/33/Add.2). The Committee against Torture has likewise received troubling reports of deaths in military-run camps and the apparent lack of investigations as well as of the continuing use of torture in interrogations by police, military and Civilian Joint Task Force officers (CAT/C/NGA/COAR/1, para. 15).

As of March 2025, according to Nigeria's Special Independent Investigation Panel, approximately 5,000 people remain in military detention in the North East. Tens of thousands of people have been detained throughout the conflict, during which time there have been persistent concerns that people have been detained for prolonged periods, sometimes incommunicado, without being informed of the charges, having the opportunity to challenge their detention before a court, or having access to legal representation or family members.³

Concerns about children in detention

Since 2013, the Nigerian military has reportedly detained over 4,000 children from Boko Haram-controlled territories, although the precise number of those detained remains unknown (S/2022/596). Most children are between 13 and 17 years old (S/2020/652), but some were as young as five years old. In the vast majority of cases, no charges have been brought against these children and due process is reportedly flouted. In most cases, there is little evidence of their affiliation with Boko Haram or involvement in crimes against civilians. Many children are detained due to their or their parents' actual or alleged association with Boko Haram or other groups (S/2020/652). Some children were earlier abducted by Boko Haram or were apprehended fleeing from Boko Haram.

The children are held predominantly at the Giwa and Maimalari barracks, both in Maiduguri. Detention conditions are described as unsanitary and overcrowded, with children experiencing beatings, overwhelming heat, frequent hunger, and being packed tightly in cells with hundreds of adult detainees. Many children are held incommunicado and denied access to their

² See e.g. Committee Against Torture's 2020 concluding observations on Nigeria, CAT/C/NGA/COAR/1, paras. 17, 19 and 23; 2021 country visit report of the Special Rapporteur on summary executions, A/HRC/47/33/Add.2, para. 36 and 37; and the findings of Nigeria's Special Board of Inquiry and the Presidential Special Independent Investigation Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement

³ CCPR/C/NGA/CO/2, para. 36; A/HRC/47/33/Add.2, 68-71.

families and legal representation. The United Nations has also reportedly not been permitted to access the facilities or the children. Many of the children have been held for a period of years. The detention of children without providing information on their fate or whereabouts to their relatives, lawyers or other persons having legitimate interest amounts to enforced disappearance.

There are numerous reports of children dying in detention, most commonly from disease. Their bodies are reportedly taken to a mortuary in Maiduguri and then buried in unmarked mass graves by Borno State Environmental Protection Agency personnel, which further conceals and denies families their rights to the truth and to learn of the fate and whereabouts of their loved ones.

The Nigerian Government reportedly agreed to transfer children from military custody between July 2018 and March 2020. A “handover protocol” signed in September 2022 between the United Nations and the Government of Nigeria provides that children taken into military custody on suspicion of involvement with Boko Haram should be transferred within seven days to civilian authorities for reintegration. However, to this day, it is unclear the number of children in detention for terrorist-related charges and access to these facilities remains heavily restricted.

Situation of women and girls

Many girls and young women formerly associated with Boko Haram have been detained, with particular physical and mental health needs resulting from their experiences of forced marriage, sexual violence, childbirth at a young age, abduction, slavery, human trafficking, and being victims or witnesses of violence. Many of them and their children lack identification documents and did not receive an education while with Boko Haram.

Government screening processes for people formerly associated with Boko Haram have reportedly not been gender-sensitive, including identifying victims of sexual and gender-based violence, including forced marriage or trafficking in persons. Most survivors have not received the necessary assistance and protection, and support has been further limited by the authorities’ restrictions on humanitarian actors in Borno State since 2021. Detention conditions in two transit centres in Borno State are manifestly inadequate for their rehabilitation, with some babies dying in captivity and a lack of food, water, shelter, sanitation and gender-appropriate healthcare. Some women and girls have faced stigmatisation by military personnel and have often been perceived as terrorist associates rather than as victims of terrorism.

Conditions and rehabilitation opportunities are reportedly better at the Bulumkutu Interim Care Centre, which is a dedicated facility for women and girls. However, as a closed centre, in the absence of any legal determination of the necessity and proportionality of detention or judicial review of detention, their confinement is arbitrary under international law.

While we do not wish to prejudge the accuracy of these allegations, we are

deeply concerned about the apparently arbitrary and prolonged detention of at least 800 individuals, including women and children, accused of terrorism-related offences. A significant number of these individuals have been in pre-trial detention for several years without adequate access to legal representation and due process or the possibility of effectively challenging their detention. We are further concerned that several individuals appear to have been subjected to enforced disappearance. We are also concerned that some individuals, despite the dismissal of their cases, have not been released from detention due to the absence of a de-radicalisation program, which was imposed as a condition of release by the Court. Additionally, the emaciated appearance of defendants raises concerns about the conditions of detention in the military facilities in Giwa. We also express concern at the general opacity surrounding the arrest, trial, transfer, and release of individuals associated with Boko Haram, the limited information released by the Government, and the lack of any effective oversight and accountability mechanism to ensure that these individuals are treated in accordance with Nigeria's human rights obligations.

Should these allegations be confirmed, they would constitute violations of the International Covenant on Civil and Political Rights, acceded to by Nigeria on 29 July 1993, specifically the right to life (article 6), freedom from torture and cruel, inhuman and degrading treatment or punishment (article 7) (including as regards the relatives of forcibly disappeared persons), freedom from slavery (article 8), freedom from arbitrary detention (article 9), humane conditions of detention (article 10), fair trial (article 14), non-retroactive criminal punishment (article 15) and the right of children to protection (article 24), all read alone and in conjunction with article 2(3). Furthermore, these allegations could also constitute a violation under article 6 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Nigeria on 28 June 2001; violations of the rights of children under articles 6, 19, 28, 31, and 37 of the Convention on the Rights of the Child (CRC), ratified by Nigeria on 19 April 1991; and, violations of the rights of women and girls under the Convention on the Elimination of All Forms of Discrimination against Women, ratified by Nigeria on 13 June 1985. In relation to enforced disappearance, the allegations would violate and violations to articles 2, 12, 17-21, 24 and 25 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), acceded to by Nigeria on 27 July 2009, as well as articles 2, 3, 7, 9-10, 13, 18 and 20 of the United Nations Declaration on the Protection of All Persons from Enforced Disappearances (Declaration on Enforced Disappearances). The allegations would also constitute violations of the corresponding provisions of the African Charter on Human and Peoples' Rights, ratified by Nigeria on 21 October 1986, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, ratified by Nigeria on 16 December 2004.

Counter-terrorism law framework

Detention powers

The now-repealed 2013 CT Law and the Terrorism (Prevention and Prohibition) Act of 2022 ("2022 CT Law") both provide for investigative and pre-trial detention. First, section 27(1) of the 2013 CT Law allowed the Court to order the detention of a suspect for up to 90 days, renewable for a similar period until the investigation and prosecution are concluded. Section 66(1) of the 2022 CT Law provides similarly but

reduces the renewable period of detention to 60 days. The provision for renewal appears to permit indefinite renewals, not a single renewal period. Despite the possibility of indefinite renewal of detention, the law appropriately provides for relatively short intervals of periodic control of detention (60-90 days), in principle enabling the court to decide on the continuing necessity of detention or whether to release the person.

In this respect, article 9(3) of the ICCPR provides the right to be tried within a reasonable time or be released. Article 14(3)(c) guarantees the right to be tried without undue delay, which aims to avoid leaving suspects in a state of uncertainty, ensure detention lasts only as long as necessary, and to serve the interests of justice (general comment No. 32, para. 35). Those on remand must be tried “as expeditiously as possible” and whether delay is unreasonable is in part determined by the conduct of the administrative and judicial authorities (*ibid*). As discussed below, however, the concern in practice has been that individuals in military detention have not been periodically brought before the court.

In addition, section 27(3) of the 2013 CT Law permitted law enforcement or security officials to detain individuals found on any premises or conveyance until the search or investigation under the Act was completed. Section 66(3) of the 2022 CT Law provides similarly. No detention order is required from the Court. While this provision appears to relate to the search/investigation connected with the premises or conveyance, it is ambiguously worded and could be interpreted to allow time-unlimited detention without a court order. If that were the case, the continuation of detention without judicial authorisation would violate the requirements that detention be strictly necessary and proportionate under article 9(1) of the ICCPR (General Comment No. 35, para. 12) and subject to independent judicial control under article 9(3)-(4), read in conjunction with the right to an effective remedy in article 2(3).

Denial of legal representation and communication

Section 67 of the Terrorism (Prevention and Prohibition) Act of 2022 (“2022 CT Law”) (which basically replicates section 28(1) of the 2013 CT Law) authorizes detention in custody of criminal suspects for up to 48 hours without access to any person except a government medical officer and a government-appointed legal practitioner, or any phone or communication gadget. We are concerned that this provision restricts access to lawyers and medical professionals of one’s choosing during this period and to family members (see Annex). Article 9 of the ICCPR is understood to require prompt and regular access to independent medical personnel and lawyers and, under appropriate supervision, to family members (general comment No. 34, para. 58; see also rule 61 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). Furthermore, denying suspects access to communication devices leaves them incommunicado for up to 48 hours. We are also concerned that this provision, in its current form, may expose detainees to a heightened risk of enforced disappearance and torture, and other cruel, inhuman, and degrading treatment.

Disproportionate penalties

We are concerned about the minimum legislative penalties for individuals

accused of certain terrorism offences, including providing material support to a terrorist group (under article 13(1) of the 2022 CT Law) and membership of such a group (under article 25 of the 2022 CT Law), which can result in sentences from 20 years to life in prison. We note that such offences do not necessarily involve violent acts by the person or any meaningful contribution to the commission of violence by the group. We emphasise that any criminal conviction must be proportionate to the gravity of the offence and the culpability of the perpetrator. Proportionality in sentencing requires that the penalty for a crime reflects its seriousness and the degree of personal culpability, ensuring appropriate independent judicial discretion in sentencing. Proportionate sentences also encourage rehabilitation by offering convicts the possibility of release and reintegration into society, whereas mandatory life sentences undermine prospects of rehabilitation, including the deradicalisation of offenders.

Procedural safeguards on the death penalty

The 2022 CT Law, similarly to the 2013 CT Law, provides for the death penalty where death results from the act. In this regard, we emphasise that the death penalty may only be imposed following judicial proceedings that ensure the most stringent guarantees of fair trial and due process, as established under international human rights law. Specifically, article 14 of the ICCPR requires fair proceedings before an independent and impartial tribunal. Any execution resulting from proceedings that violate these standards would constitute a violation of the right to life under article 6 of the ICCPR.

Arbitrary detention and enforced disappearances

We are seriously concerned that many cases of detention in military facilities related to the Boko Haram conflict have been arbitrary or otherwise contrary to the safeguards for persons deprived of their liberty under article 9 of the ICCPR.

Arbitrary arrests

We are concerned that mass, indiscriminate arrests have been made of innocent civilians, including because of their family or other perceived associations with Boko Haram, when fleeing from Boko Haram affected areas, or due to their presence in such areas, particularly in villages of Fulani ethnicity. We note that most people arrested by the military during screenings and mass arrests were civilians who were not taking part in hostilities, not carrying arms, and not wearing uniforms, insignia or other indications that they were members of Boko Haram (A/HRC/47/33/Add.2, paras. 68-71). The Human Rights Committee has indicated that detaining family members of an alleged criminal who are not themselves accused of any wrongdoing is an “egregious” example of arbitrary detention (general comment No. 35, para. 16).

Some arrests may thus not have been based on reasonable grounds substantiated by sufficient evidence and were thus arbitrary and contrary to article 9(1) of the ICCPR and articles 6 and 7 of the ACHPR. Under these treaties, arrest or detention must be authorised by domestic law and must also not be arbitrary. Arbitrariness may include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality (general comment No. 35, paras. 12 and 15). The fact that a number of 882 individuals had their cases

dismissed in the 2017-2018 Kainji hearings appears to be evidence of the scale of unsubstantiated arrests and detention.

Lack of reasons for arrest

We are also concerned that many detained people were apparently not informed, at the time of arrest, of the reasons for their arrest and were not promptly informed of any charges against them, contrary to article 9(2) of the ICCPR.

Inadequate judicial review and access to lawyers

We are further concerned that many thousands of detained people were reportedly not brought promptly before a judge following their arrest and in some cases were held for years without judicial review, contrary to article 9(3) of the ICCPR, including so as to give effect to the general rule under the same provision that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial. The term “promptly” must be determined on a case-by-case basis, but the delay between arrest and judicial appearance should not exceed a few days (general comment No. 35, para. 33). Longer detention without judicial control increases the risk of ill-treatment and enforced disappearances.

Relatedly, we are concerned that, despite their formal right to challenge their detention in court under Nigerian law, many detained people were not practically and promptly able to exercise their right under article 9(4) of the ICCPR to seek judicial review of their detention so that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. Similarly, the complaints procedure at the National Human Rights Commission is not very efficient (CAT/C/NGA/COAR/1, para. 17).

In addition, we are concerned that the ability of detained people to challenge their detention in court has been undermined by a lack of access to lawyers for protracted periods, including the absence of public defenders before criminal trials commenced and the inability of private lawyers to represent individuals. Detained people are entitled to legal assistance whenever their detention is reviewed (general comment No. 35, para. 34) and to prompt and regular access to independent medical personnel and lawyers and, under appropriate supervision, to family members (*ibid*, para. 58).

Protracted detention

Furthermore, we are concerned by the protracted detention without trial of many people, often for years and in some cases up to 10 years, contrary to the right in article 9(3) of the ICCPR to be tried within a reasonable time or be released and the right in article 14(3)(c) to be tried without undue delay. We note that the Committee against Torture indicated that about 72 per cent of the prison population as a whole was still awaiting trial, despite the Government’s efforts to reduce overcrowding (CAT/C/NGA/COAR/1, para. 17). We highlight that prolonged detention, particularly without a valid legal basis, could also be considered a form of cruel, inhuman or degrading treatment or punishment (CAT/39/46, art. 6). We also note that extremely prolonged pre-trial detention may also jeopardize the presumption of innocence under

article 14(2) (general comment No. 35, para. 37).

While Nigerian law appropriately provides for relatively frequent periodic judicial reviews of detention,⁴ which would enable an assessment of the continuing necessity of detention and alternatives to it, such protection appears not to have been applied consistently and rigorously in practice.

Detention without legal authorisation

We also express concern on the alleged continuing detention of at least 800 individuals, including children, whose terrorism-related cases were dismissed or who were ordered to be discharged after the Kainji trials in Niger State. In some cases, detention continued because of the Federal High Court order to complete a deradicalisation programme, which did not exist at the time of the order. In other cases, detainees have been transferred to Operation Safe Corridor for rehabilitation. There also remains a lack of clarity about whether and when some individuals will be transferred from military detention to civilian prisons (where they have been convicted of offences) or to deradicalisation or rehabilitation facilities (where the charges have been dismissed). We are concerned that these forms of continuing detention appear to have no domestic legal basis and are thus contravene the requirement in article 9(1) of the ICCPR that “[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law”.

Detention further seems to be arbitrary, contrary to article 9, because it does not appear to be based on any reasoned, individualised assessment of the terrorism risk posed by the affected persons or an evaluation of the necessity or proportionality of imposing the programme or rehabilitation measures on them. Such evaluation would be impossible to do in the absence of the existence of a deradicalisation programme at the time of the Court’s order, and thus of any judicial knowledge of its content, effectiveness, indicators of “successful” deradicalisation, or duration. Detention is further arbitrary because it appears to be indefinite. We recall that with the exception of judicially imposed sentences for a fixed period of time, a decision to keep a person in any form of detention is arbitrary if it is not subject to a periodic reassessment of the justification for continued detention (general comment 35, para. 12).

To the extent that the deradicalization program could operate as a de facto punishment, in the absence of a criminal conviction, we are concerned that it would infringe the prohibition on retrospective criminal punishment under article 15 of the ICCPR, which requires that no one can be punished for an act unless the punishment was prescribed by law at the time the act was committed.

We further emphasise that any non-custodial measure, including rehabilitation, should be in accordance with the United Nations Standard Minimum Rules for Non-Custodial Measures, known as the Tokyo Rules.

Enforced disappearances

⁴ Section 27(1) of the 2013 CT Law allowed the Court to order the detention of a suspect for up to 90 days, renewable for a similar period until the investigation and prosecution is concluded. Section 66(1) of the 2022 CT Law provides similarly but reduces the renewable period of detention to 60 days. The provision for renewal appears to permit indefinite renewals, not a single renewal period.

We are deeply concerned at reports of incommunicado detention and enforced disappearance, including as a result of a lack of access to family members, lawyers, judicial review and external monitoring mechanisms. We draw the attention of your Excellency's Government to the absolute and non-derogable prohibition of enforced disappearances which has attained the status of *jus cogens* (A/HRC/51/31/Add.3). The applicable international legal standards are set out in the annex, including the duties to take adequate measures to prevent the enforced disappearance of individuals, and conduct a prompt, effective, independent and impartial inquiry to establish the fate and whereabouts of such persons (general comment No. 36, para. 58). States must also punish perpetrators with appropriate criminal sanctions and ensure that victims and their relatives are informed about the outcome of investigations and are provided with full reparation (*ibid*).

Lack of reparation

We are also concerned that those individuals who may have been victims of unlawful arrest or detention have not been able to exercise an enforceable right to compensation, contrary to article 9(5) of the ICCPR.

We emphasise your Excellency's Government's obligation to ensure that no one is arbitrarily arrested or detained within its territory. When individuals are detained, they must enjoy all legal safeguards in accordance with articles 9 and 14 of the ICCPR, including prompt and effective judicial review. States are further obligated to investigate all cases of arbitrary arrest, hold those responsible accountable through disciplinary action and judicial proceedings, and, where appropriate, provide full reparation.

Fair trial and judicial safeguards

We are deeply concerned about the allegations of fair trial violations during the judicial proceedings of individuals charged with terrorism-related offences. The right to a fair trial is recognised not only in human rights treaties but also in international humanitarian law, international criminal law, international counter-terrorism conventions and customary international law (see A/63/223). We emphasize the fair trial rights under human rights law and humanitarian law are essentially the same and fair trial always applies in armed conflict. Specifically, we are concerned that at the following apparent fair trial violations:

- The failure to inform some defendants of the charges prior to their first Court hearing is inconsistent with article 9(2) of the ICCPR, which requires anyone arrested to be informed at the time of arrest of the reasons for their arrest and promptly informed of any charges against them.
- The vagueness of some of the charges and the lack of specificity of the allegations presented in court appear to violate the requirement in article 14(3)(a) of the ICCPR to inform defendants promptly and in detail of the nature and cause of the charges against them.

- Excessive and unjustified delays in bringing suspects to trial are not consistent with article 14(3)(c) of the ICCPR, which requires suspects to be tried without undue delay, in order to avoid leaving them in a state of uncertainty, ensure detention lasts only as long as necessary, and to serve the interests of justice (general comment No. 32, para. 35). Those on remand must be tried “as expeditiously as possible” and whether delay is unreasonable is in part determined by the conduct of the administrative and judicial authorities (ibid).
- The refusal to permit representation by private lawyers in some cases infringed article 14(3)(d) of the ICCPR, which provides defendants with a right of defence through “legal assistance of their own choosing”. The failure to facilitate access to public defenders prior to the trial, and the lack of preparedness of such lawyers, violated the right under article 14(3)(b) to have adequate time and facilities to prepare the defence and to communicate with counsel of one’s own choosing, and consequentially the right in article 14(3)(e) to examine and cross-examine witnesses.
- The lack of sufficient disclosure of relevant evidence prior to the trial infringed the right to prepare a defence and to examine and cross-examine witnesses under article 14(3)(b) and (e). “Adequate facilities” to prepare a defence must include access to documents and other evidence that the prosecution plans to offer in court against the accused or that are exculpatory (general comment No. 32, para. 33).
- The lack of interpreters and the use of untrained interpreters violated the right to the free assistance of an interpreter under article 14(3)(f) of the ICCPR.
- The heavy or sole reliance on confessions as evidence of guilt, in the context of protracted arbitrary detention in inhumane conditions, raises concerns about the possibility of forced confessions. Article 7 of the ICCPR (general comment No. 32, para. 6) and article 15 of the Convention against Torture prohibit the admission in any proceeding of evidence obtained by torture. Further, article 14(3)(g) of the ICCPR provides a right not to be compelled to testify against himself or to confess guilt, which “must be understood in terms of the absence of any direct or indirect physical or undue psychological pressure from the investigating authorities on the accused, with a view to obtaining a confession of guilt” (general comment No. 32, para. 41; see also para. 60).
- Trials closed to the public appear to contravene article 14(1) of the ICCPR, which provides that everyone is entitled to a public hearing and that the press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of

justice. We are not aware of any purported justification for closed trials. We further recall that the Human Rights Committee emphasises the importance of developing and maintaining effective, fair, humane, transparent, and accountable criminal justice systems, especially when addressing terrorism, and the importance of public trials (CCPR/C/GC/32). Closed trials also undermine public confidence in the administration of justice.

- We are concerned at the apparently heavy punishments for terrorism-related offences not involving the commission of any violence, including membership of a terrorist organization and support for such an organisation, particularly in the absence of fair trials leading to such sentences. We emphasise that the principle of proportionality in sentencing requires the punishment to reflect the level of personal responsibility and not to be applied on a blanket basis to categories of offenders.

Inadequate conditions of detention

We are concerned that the very poor conditions of detention in military facilities, as outlined above, do not meet international legal standards, as found by the Committee against Torture in its 2020 concluding observations on Nigeria (CAT/C/NGA/COAR/1, paras. 17, 19 and 23) and the 2021 country visit report of the Special Rapporteur on summary executions (A/HRC/47/33/Add.2, para. 36 and 37), and as documented by Nigeria's Special Board of Inquiry and the Presidential Special Independent Investigation Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement.

Deaths in custody

We are particularly concerned about allegations of many deaths in custody, mainly as a result of the very poor conditions of detention. We refer your Excellency's Government to the obligation to protect the right to life under article 6 of the ICCPR. In particular, States parties "have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State" and may not invoke lack of resources or other problems to reduce this responsibility (general comment No. 36, para. 25) or the existence of armed conflict (ibid, para. 64). The duty to protect life requires providing necessary health care (ibid, para. 25) and other necessities to detainees.

We note that any loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation that establishes the State's compliance with its obligations under article 6 (general comment No. 36, para. 29). We emphasize the obligation on Nigeria to investigate potentially unlawful deprivations of life in custody, and to have body examined by an independent forensic professional to determine the cause and manner of death, and where appropriate, to prosecute the perpetrators of such incidents, arising from the duties to ensure rights and to provide an effective remedy to victims of human rights relatives and their relatives under article 2(1) and (3) of the ICCPR respectively, when read in conjunction with

article 6(1) (general comment No. 36, para. 27). International standards on investigations are set out in the Annex of this letter.

We also underline that the burial of children who died in custody, without proper documentation, identification and examination to determine the cause and manner of death, infringes upon the rights of victims and their families to truth, justice and reparation.

Torture and cruel, inhuman or degrading treatment or punishment

We are concerned about reports of the continuing use of torture in interrogations by police, military and Civilian Joint Task Force officers. We are also concerned that very poor conditions of detention, as well as incommunicado detention and enforced disappearance can constitute torture or cruel, inhuman or degrading treatment or punishment. Should these allegations be proven true, Nigeria would be in violation of the prohibition on torture and cruel, inhuman, or degrading treatment or punishment under article 7 of the ICCPR and articles 2 and 16 of the CAT. We note further that torture ill-treatment, which may seriously affect the physical and mental health of the mistreated individual, could also generate the risk of deprivation of life (general comment No. 36, para. 54). As in the relation to violations of the right to life, we emphasize the obligation to investigate and prosecute allegations of torture or cruel, inhuman or degrading treatment or punishment in line with international standards.

We note that the Committee against Torture welcomed Nigeria's revised legal framework prohibiting the admission of confessions obtained under torture, as incorporated in the Anti-Torture Act, the Evidence Act, and the Administration of Criminal Justice Act. We also welcome the establishment of the national preventive mechanism for torture in 2025. In this respect, we urge the Government to promptly grant access to military facilities and sites where individuals convicted or awaiting trial for terrorism-related crimes are detained. We further note the valuable role of the Special Board of Inquiry and the Presidential Special Independent Investigation Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement and urge the Government to ensure that these bodies can operate transparently and effectively without hindrance and in accordance with international standards.

Children in detention

We are concerned that a large number of children have allegedly been and continue to be arbitrarily detained for protracted periods in military facilities for their actual or perceived association with armed groups in the conflict, including association with parents and family members, without any individual determination of the necessity and proportionality of detaining them. We echo the Secretary-General's concern that these children should not be detained due to their or their parents' association or alleged association with armed groups ([S/2022/596](#)) or where they are fleeing from Boko Haram ([S/2020/652](#)). Under article 37(b) of the CRC, the detention of a child must be a measure of last resort. Even if detention is deemed necessary, it must be lawful, not arbitrary, and only for the shortest appropriate period of time (CRC, article 37(b)). The Committee on the Rights of the Child has indicated that in the few situations where deprivation of liberty is justified as a last resort, it must only be applied to older children

and be strictly time-limited (general comment No. 24, para. 6(c)(v)). Similar protections are found in section 212 of Nigeria's Child Rights Act 2003, which stipulates that wherever possible, detention be replaced by alternative measures, including close supervision, care by and placement with a family or in an educational setting or home. We stress further that in all actions concerning children, the best interests of the child shall be a primary consideration (CRC, article 3(1)).

Children in detention also have the right to prompt access to legal and other appropriate assistance, and the right to challenge the legality of their detention before a court or other independent body (CRC, article 37(d)). We are also concerned about the reported lack of access to children in detention by the United Nations and independent monitors.

We are deeply concerned that children have been detained amongst adults, including those suspected of terrorism. Article 37(c) of the CRC prohibits detaining children with adults unless it is considered in the best interest of the child, an exception which should be interpreted narrowly and not so as to allow the convenience of the State to override their best interests (Committee on the Rights of the Child, general comment No. 24, para. 92). Detention with adults "compromises their health and basic safety and their future ability to remain free of crime and to reintegrate" (ibid). Children should be detained in separate facilities that are staffed by appropriately trained personnel and that operate according to child-friendly policies and practices (ibid). The imperative to detain children separately from adults is particularly imperative where they would be exposed to possible radicalisation and recruitment by adult terrorist offenders.

We are further concerned about the inadequate conditions of detention, as detailed above. Under the CRC, children be treated with humanity and respect (article 37(c)) and must be protected from all forms of physical or mental violence, injury, or abuse while in the care of any person charged with their care (article 19). They also enjoy the right to life, survival, and development (CRC, article 6), the right to education, and the right to play and engage in recreational activities (CRC, articles 28(1) and 31).

We emphasize that that children associated with armed groups or accused of having committed crimes during armed conflicts should be treated primarily as victims of violations of international law, with a focus on non-judicial alternatives to prosecution and detention, and reintegration (general comment No. 24, para. 100). Further, all feasible measures must be taken to ensure the protection and care of children affected by armed conflict, and to promote the physical and psychological recovery and social reintegration of child victims of armed conflict. The Committee on the Rights of the Child has stressed that the preservation of the family environment encompasses the preservation of the ties of the child in a wider sense, including extended family, friends, school, and the wider environment.

We acknowledge the efforts of your Excellency's Government to transfer children from military custody between July 2018 and March 2020, and welcome the "handover protocol" signed in September 2022 between the UN and the Government of Nigeria, agreeing that children taken into military custody on suspicion of involvement with Boko Haram should be transferred within seven days to civilian authorities for reintegration. However, we note with concern that to this day, it is

unclear the number of children in detention for terrorist-related charges and that access to these facilities remains heavily restricted. We call on your Excellency's Government to expedite the implementation of the protocol and to grant access to the United Nations and child protection actors to military detention facilities.

Situation of women and girls

We are concerned at the detention of women and girls formerly associated with Boko Haram, many as victims of terrorism and serious violations of international law, as well as their lack of sufficient access to rehabilitation and reintegration opportunities consistent with their status as victims. In particular, we are concerned to ensure that they receive sufficient physical protection, gender appropriate healthcare (including mental health services and sexual and reproductive health care), education, vocational and livelihood opportunities, and access to justice. We are also concerned to ensure that victims of trafficking are not punished for their association with terrorist groups.

Women and girls are also entitled to justice and accountability as victims of terrorism, including the investigation and prosecution of perpetrators, and full and prompt reparation as well as their participation in conflict prevention, peacebuilding and post-conflict reconstruction in line with the SCR 1325 (2000). In this regard we are concerned that most Boko Haram prosecutions in Nigeria have involved charges relating to support or membership of a terrorist group, rather than for specific violent crimes, including sexual and gender-based violence and war crimes. We encourage Nigeria to recognize the nature of the offending against victims and select appropriate charges, in order to ensure victims receive appropriate recognition and justice for the crimes they faced.

The Committee on the Convention the Elimination of All Forms of Discrimination Against Women (CEDAW) has reiterated that women and girls are entitled to have all barriers to their accessing justice institution mechanisms and processes removed, including through the provision of legal aid and the establishment of specialized courts and ensuring adequate protection measures for victims and witnesses, including non-disclosure of identity and the provision of shelters. (CEDAW/C/GC/30). The CEDAW Committee has also emphasised State parties' obligations in ensuring women's right to a remedy, which encompasses the right to adequate and effective reparations for violations of their rights under the Convention.

We further recall the CEDAW Committee recommendation on involving involvement of women in the development of developing strategies to counter the violent extremist narrative of Boko Haram and in addressing the conditions conducive to the spread of violent extremism, especially in the north-east of the country (CEDAW/C/NGA/CO/7-8, para. 16). States should also ensure. the participation of women in conflict prevention, peacebuilding and post-conflict reconstruction in line with the Security Council resolution 1325 (2000).

In light of our above concerns, we urge your Excellency's Government to facilitate unimpeded access by the appropriate UN bodies and civilian child protection actors to detention facilities and to fulfil your obligations under the recently signed handover protocol, which we urge you to endorse and implement as soon as possible to ensure that children affected by the conflict can be reintegrated into their communities

and receive the help and support they deserve and need.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please explain what measures are being taken to prevent arbitrary arrests and enforced disappearances of individuals, including family members of those associated with Boko Haram, the victims of Boko Haram, and displaced persons.
3. Please provide information regarding the measures taken to ensure that any person deprived of liberty can communicate with, and be visited by, their family, counsel or any other person of their choice.
4. Please explain what measures are being taken to guarantee judicial review of detention.
5. Please provide information regarding the measures that are being taken to ensure that all detainees are brought to trial within a reasonable time. Please also explain which steps are being taken to address the logistical challenges that delay court proceedings and affect the right to a timely trial.
6. Please inform on the measures adopted to ensure that any person with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their lawyers, can have access to information, on the fate and whereabouts of the persons deprived of liberty and their state of health.
7. Please indicate which measures are in place to ensure that detainees are treated humanely and with dignity, including by provision of adequate food, water, medical care and personal space, in line with international human rights standards.
8. Please indicate what oversight and accountability measures apply to detention in relation to terrorism, particularly in military facilities.
9. Please provide information as to the reasons why the individuals whose cases were dismissed during the Kainji hearings have not been yet released, despite the court's orders, and what is the legal basis for the detention.

10. Please provide detailed information about the legal basis under which deradicalisation programs are mandated for detainees who have not been convicted of any offence. Please indicate the steps that are being taken, if so, to ensure that deradicalisation programs are implemented in a manner that respects the rights and dignity of detainees.
11. Please explain what measures are being taken to ensure that children are only detained as a last resort, and that the best interests of the child are a primary consideration in all actions affecting them in relation to detention and criminal justice.
12. Please provide information on how your Excellency's Government plans to implement the 'handover protocol', exactly how many children remain in detention in military facilities, and when those remaining will be transferred to civilian authorities for rehabilitation and/or reintegration.
13. Please outline the measures the Government is taking or plans to take to improve the rehabilitation and reintegration of women and girls formerly associated with Boko Haram, particularly those who were victims of terrorism and other violations of international law, including sexual and gender-based violence, forced marriage, slavery, internal displacement and trafficking. In this regard, please explain how the Government ensures access to necessary assistance and protection, including physical and mental healthcare, education, vocational training, legal aid and access to justice, in line with its international obligations.
14. Please explain whether compensation and other measures of reparation, including rehabilitation and satisfaction, are available to those who were illegally or arbitrarily detained or subjected to enforced disappearance.
15. Please indicate what steps are being taken to investigate and prosecute anyone suspected of committing violations of international law in the context of countering terrorism, especially for torture, enforced disappearances, and deaths in custody; and to provide reparation to victims and/or their families.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to bring to the attention of your Excellency's Government that should sources submit the allegations concerning individual cases of enforced disappearances for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, the case will be examined by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

We would similarly like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether a deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to this letter of allegation and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable damage to the life and personal integrity of the persons concerned, to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Matthew Gillett

Vice-Chair on communications of the Working Group on Arbitrary Detention

Gabriella Citroni

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

Paula Gaviria

Special Rapporteur on the human rights of internally displaced persons

Siobhán Mullally

Special Rapporteur on trafficking in persons, especially women and children

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences

Laura Nyirinkindi

Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

Counter-terrorism legal framework

Numerous resolutions of the General Assembly, Human Rights Council and Security Council⁵ require that States ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, must comply fully with all their obligations under international law. We would like to stress that counter-terrorism legislation with penal sanctions should not be misused against individuals peacefully exercising their rights to freedom of expression and freedom of peaceful association and assembly.

In the same vein, the Human Rights Council resolution 22/6 urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. Further, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, in order to prevent the possibility that it may be used to target civil society on political or other unjustified grounds (A/70/371, para 46(b)).

Arbitrary detention

Article 9 of the ICCPR prohibits arbitrary arrests or detention. An arrest or detention is considered arbitrary when it constitutes a punishment for the peaceful exercise of human rights, and it may also be arbitrary when it is imposed without guaranteeing access to legal assistance and contact with the family. Prolonged detention without a legal basis is considered arbitrary (A/HRC/36/38, para. 8 and CCPR/C/GC/35, para. 17).

States have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State, since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their lives and bodily integrity, and they may not rely on lack of financial resources or other logistical problems to reduce this responsibility. The duty to protect the life of all detained individuals includes providing them with the necessary medical care and appropriate regular monitoring of their health.

⁵ See e.g. General Assembly resolutions 49/60, 51/210, 72/123 and 72/180; Human Rights Council resolution 35/34; and Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017).

Enforced disappearance

The absolute and non-derogable prohibition of enforced disappearances has attained the status of *jus cogens* (A/HRC/51/31/Add.3). Particularly relevant are articles 1, 2, 12, 17-21, 24 and 25 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), acceded by Nigeria on 27 July 2009, as well as articles 2, 3, 7, 9-10, 12, 19 and 20 of the United Nations Declaration on the Protection of All Persons from Enforced Disappearances (Declaration on Enforced Disappearances). We further recall that extreme forms of arbitrary detention, including enforced disappearances, are incompatible with the right to life, the prohibition of torture or cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person and the right to recognition before the law (general comment No. 36, paras. 57-58).

States must take adequate measures to prevent the enforced disappearance of individuals, and conduct a prompt, effective, independent and impartial inquiry to establish the fate and whereabouts of such persons (general comment No. 36, para. 58). States must also punish perpetrators with appropriate criminal sanctions and ensure that victims and their relatives are informed about the outcome of investigations and are provided with full reparation (*ibid*). Articles 17 to 19 of the ICPPED and 9-10 of the Declaration on Enforced Disappearances relate to the prohibition of secret detention, rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty and access of competent national authorities to all places of detention.

The families of the disappeared are also victims as they have suffered harm as the direct result of an enforced disappearance and have a right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person (article 24 ICPPED and 19 of the Declaration). Article 25 of the ICPPED and article 25 of the Declaration establish the need to protect the best interests of children and the specific obligations when enforced disappearance of children is at stake. Child victims of enforced disappearance suffer particularly severe harm in these situations and the separation of children from their families has specific and especially serious effects on their personal integrity that have a lasting impact, and causes great physical and mental harm (general comment of the Working Group on Enforced or Involuntary Disappearances on children and enforced disappearances, (A/HRC/WGEID/98/1, paras. 1 and 6). Moreover, “any custody determination must take into account a child’s best interest, protect the child from discrimination, and respect the child’s views concerning the matter” (para. 21).

Due process

Article 9 of the ICCPR is understood to require prompt and regular access to independent medical personnel and lawyers and, under appropriate supervision, to family members (general comment No. 34, para. 58). Other relevant human rights instruments are the UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37) and the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990. They provide

for the right to legal assistance, and for prompt access and consultation with counsel without intimidation, hindrance, harassment or improper interference.

Rule 61 of the Nelson Mandela Rules further provides that prisoners should be allowed to consult with their legal advisers without delay, interception, or censorship, and in full confidentiality. Rule 26 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) further recognizes that women in detention often face distinct barriers to accessing legal assistance, stemming from factors such as lower levels of education, economic dependency, social marginalization, and frequent abandonment by their families upon imprisonment. It therefore encourages prison authorities to take proactive measures to support women in securing legal counsel, acknowledging their compounded vulnerabilities.

We recall that an accused person has the right to the presumption of innocence and to defend oneself, the right to equality before the courts and tribunals and the right to a fair trial in line with articles 10 and 11 of the UDHR, article 14 of the ICCPR (ratified on 22 July 1993) and article 7 of the African Charter on Human and People's Rights (ratified by Nigeria on 22 June 1983).

We further recall that article 14 of the ICCPR protects the rights to a fair trial, due process and presumption of innocence requires that "all persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law (...) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law" and details numerous specific guarantees of fair trial. The Human Rights Committee has highlighted that the right to a fair trial is a fundamental human right and that any deviation from this principle must be strictly justified (CCPR/C/GC/32, para. 30). Additionally, article 15 of the ICCPR states that "No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed".

We recall that the principle of legal certainty expressed in articles 11 of the UDHR, 9(1) of the ICCPR and 7(2) of the African Charter on Human and People's Rights requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. We reiterate that vaguely and broadly worded provisions undermine the principle of legality.

Furthermore, international standards provide that accused persons must have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing. This entails access to documents and other evidence, which includes all materials that the prosecution plans to offer in court against the accused or that are exculpatory. Counsel should be able to meet their clients promptly, in private, and in conditions that fully respect the confidentiality of their communications. The Human Rights Committee has explained that the "availability or absence of legal assistance often determines whether or not a person can access the relevant proceedings or participate in them in a meaningful way" (general comment

No. 32, para. 38).

Inadequate conditions of detention

Article 10(1) of the ICCPR requires that “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person” (see also article 5 of the African Charter on Human and Peoples' Rights). This rule does “cannot be dependent on the material resources available in the State party” and must be applied without discrimination (general comment No. 21, para. 4). The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) provide detailed guidelines on the treatment of prisoners, including conditions that could amount to torture or ill-treatment. Rule 7 emphasizes that no one shall be detained without a legal basis and that prisoners should be informed promptly of the reasons for their detention and any charges against them. Rule 55 states that prisoners should have the right to communicate with legal counsel and interpreters if they do not understand or speak the language used in court. Rule 22 mandates that prisoners should be provided with nutritious food of adequate quality and quantity to maintain their health and strength.

Rule 56 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) highlights that women under arrest or awaiting trial may face heightened risks due to their particular vulnerability. It is therefore essential that prison authorities implement safeguards against abuse with particular vigilance during the pre-trial detention of women, ensuring that protective policies and procedures are fully and effectively applied. Rule 5 of the Bangkok Rules provides that women deprived of their liberty must have access to adequate sanitary and washing facilities, as well as safe disposal arrangements for menstrual hygiene materials. Hygiene items such as sanitary towels and pads should be provided in a manner that preserves dignity and privacy, including through unimpeded access or distribution by female staff. Rule 18 of the Bangkok Rules states that contraceptive services must be available to women in detention on the same basis as in the community, taking into account that hormonal contraception may be required not only for pregnancy prevention but also for the treatment of health conditions such as dysmenorrhea and other menstrual disorders.

Torture or other cruel, inhuman or degrading treatment

Article 7 of the ICCPR states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Article 1 of the CAT prohibits “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” The prohibition is absolute and non-derogable (see Human Rights Council Resolution 52/7 and General Assembly Resolution 77/209).

Attached to such prohibition are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims (articles 4, 5, 12 and 13 of the CAT). Evidence obtained by torture is generally inadmissible in judicial proceedings (article 15 of CAT).

Deaths in custody

Articles 6 and 9 of the ICCPR which establish respectively the right to life and the right to security. Individuals are entitled “to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity” (general comment No. 36). The right to security of a person refers to protection against physical or psychological injury, or physical and moral integrity.

When the State detains an individual, it is held to a heightened level of diligence in protecting that individual’s rights. Therefore, when an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. In order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions (principle 9 of the Principles of the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions).

The State must investigate all suspected unlawful killings in line with international standards, particularly the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions and the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)). Investigations must be independent, impartial, prompt, thorough, effective, credible and transparent (general comment No. 36, para. 28). Investigations must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations (ibid, para. 27). Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties.

With respect to death in custody, we recall the duty to provide an effective remedy to victims of human rights violations and their relatives, under article 2(3) of the ICCPR, read in conjunction with article 6(1), paragraph 1 requires that full reparation be provided, including, in view of the particular circumstances of the case, adequate measures of compensation, rehabilitation and satisfaction (general comment No. 36). We remind your Excellency’s Government that family members of victims of unlawful death have the right to equal and effective access to justice; to adequate, effective and prompt reparation (the Minnesota Protocol, para. 10). Appropriate measures should be taken to ensure the safety, physical and psychological well-being of family members (Minnesota Protocol, para. 36).

The duty to protect the life of all detained individuals includes providing them with the necessary medical care and appropriate regular monitoring of their health,

shielding them from inter-prisoner violence, preventing suicides and providing reasonable accommodation for persons with disabilities (general comment No. 36). A heightened duty to protect the right to life also applies to juvenile institutions.

Children in detention

Under the Convention on the Rights of the Child (CRC) and its Optional Protocols, children must always be treated primarily as victims and the best interest of the child must always be a primary consideration. Under the CRC, children have the right to life (article 6); physical and mental wellbeing, care and protection, and to prevent the abduction of, the sale of or trafficking in children for any purpose or in any form (articles 3, 19, 36 and 35); birth registration, name and nationality (article 7); identity (article 8); play, leisure and culture (article 31); and an adequate standard of living (article 27), all of which are severely impaired in the camps. We stress, in particular, the right to health (24(2)), notably through the provision of adequate nutritious foods and clean drinking-water, health care and the right to a standard of living adequate for the child's development. States must ensure that the rights provided for in the CRC are respected and that appropriate measures are taken to protect and care for the child (article 3), to the maximum extent of available resources and, where needed, within the framework of international co-operation (article 4). States also have an obligation to take all appropriate legislative and administrative measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, mistreatment or exploitation, including sexual abuse (article 19).

The Security Council has resolved, through a number of resolutions, that the protection of children from armed conflict is an important aspect of any comprehensive strategy to resolve conflict, and should be a priority for the international community.⁶ The General Assembly and other UN bodies have repeatedly called for special protection afforded to children by all parties to conflict.⁷ The Secretary-General identified six grave violations during armed conflict, based on their suitability for monitoring and verification, their egregious nature and the severity of their consequences on the lives of children, whose legal basis lies in relevant international law, including international humanitarian law, international human rights law and international criminal law.

The United Nations Global Study on Children deprived of liberty has highlighted that “the trauma experienced by minors (and adults) has not stopped with the physical liberation from terrorist groups. Many children carry the stigma of association, whether they were involved or not, and face rejection, and reprisals from their home communities, which might lead into re-recruitment by armed groups. Children should not have to carry the terrible burden of simply being born to individuals related to or associated with designated terrorist groups.

Rule 28 of the Bangkok Rules requires States to take account of mothers’ and their children’s emotional need for close physical contact and the requirement for a child-friendly environment for children visiting their mothers, to reduce the trauma and

⁶ See, for example, United Nations Security Council Resolutions 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011) and 2068 (2012).

⁷ UN General Assembly Declaration, A World Fit For Children, appended to A/Res/S-27/2 (2002) which was unanimously adopted. See also A/RES/62/141 (2008), A/RES/63/241 (2009).

distress suffered by the children in these circumstances. Generally, open contact between mother and child should be permitted, taking account of the best interest of the child. The conditions of visits are of utmost importance, so that visits are experienced as a positive experience, rather than discouraging further contact. Making an effort to enable imprisoned women to meet with their families in a friendly and comfortable environment will have a significant impact on the number of visits they receive and the quality of those visits, affecting the social reintegration prospects of women prisoners.

Security Council resolution 2427 (2018), applicable to the treatment of children associated or allegedly associated with all non-State armed groups, including those who commit acts of terrorism, the Security Council called for the establishment of standard operating procedures to ensure their timely handover to civilian child protection actors. The Council called upon Member States to consider non-judicial measures that were focused on the rehabilitation and reintegration of children as alternatives to prosecution and detention and called for the application of due process for all children detained for association with armed forces and armed groups (paras. 19-21).

Women and girls

According to the General Recommendation of the Committee on the Elimination of all forms of Discrimination Against Women (general recommendations No. 19, 28, 30 and 35), detention facilities are places with a very high risk for women to be exposed to violence. The Working Group on Discrimination against Women and Girls emphasizes in its report on Women Deprived of Liberty (A/HRC/41/33) that women's deprivation of liberty is a significant concern around the world and severely infringes their human rights. States have a heightened duty of care to protect women deprived of their liberty from sexual violence (Special Rapporteur on violence against women and girls, its causes and consequences, A/HRC/47/26). Custodial rape constitutes one of the most serious forms of gender-based violence and may amount to torture or other cruel, inhuman or degrading treatment (ibid). States must prevent such violence through robust legal and institutional safeguards, ensure prompt and impartial investigations when it occurs, and provide full reparation to victims, including measures of satisfaction and guarantees of non-repetition.

With regards to women deprived of liberty, the Working Group on Discrimination against Women and Girls expressed in its thematic report (A/HRC/41/33) that measures to combat terrorism and corresponding national security measures sometimes profile and target women, in particular those from certain groups and sometimes even women human rights defenders. It has further recommended States to ensure that measures addressing conflict, crisis, terrorism, and national security incorporate a women's rights focus and do not instrumentalise women's deprivation of liberty for the purposes of pursuing government aims. As highlighted in its thematic report on Health and Safety (A/HRC/32/44), the Working Group stresses that women's safety should be addressed as an integral aspect of women's health. Women's exposure to gender-based violence in both the public and private spheres, including in conflict situations, is a major component of women's physical and mental ill health and the destruction of their well-being, and constitutes a violation of their human rights. Sexual and reproductive health matters are intrinsic to every woman and girl and tied to their ability to live with dignity and exercise their agency (Working Group on discrimination against women and girls, A/HRC/47/38). In relation to widespread impunity for

violations of the sexual and reproductive health rights, women and girls are entitled to receive adequate reparations, including restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition.

Child marriage

Regarding other abuses against children, including child marriage, the Convention on the Rights of the Child requires States Parties to diligently prevent violence and other violations of human rights; investigate and punish those responsible; and provide access to redress human rights violations, including against children (article 39). States must also protect children against economic exploitation (article 32), sexual exploitation and sexual abuse (article 34), trafficking (article 35) and all other forms of exploitation prejudicial to any aspects of the child's welfare (article 36).

Regarding child marriage, the joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices recognizes child marriage as a harmful practice and calls States to “repeal without further delay all legislation that condones, allows or leads to harmful practices, including traditional, customary or religious laws and any legislation that accepts the defence of honour as a defence or mitigating factor in the commission of crimes in the name of so-called honour” and to ensure that “the legislation is consistent and comprehensive and provides detailed guidance on prevention, protection, support and follow-up services and assistance for victims, including towards their physical and psychological recovery and social reintegration, and is complemented by adequate civil and/or administrative legislative provisions” (CEDAW/C/GC/31/Rev.1–CRC/C/GC/18/Rev.1, para. 55(c)-(d)). The Joint General Recommendation also calls on States to establish “minimum legal age of marriage for girls and boys, with or without parental consent, at 18 years (and) that a national system of compulsory, accessible and free birth registration is established in order to effectively prevent harmful practices, including child marriage” (para. 55(g)-(h)).

Child recruitment

The Convention on the Rights of the Child's Optional Protocol on the Involvement of Children in Armed Conflict (2000), ratified by Nigeria on 25 September 2012, requires State parties to increase to 18 years the minimum age for compulsory recruitment and for direct participation in hostilities (article 1). In addition, it prohibits non-State armed groups under any circumstances from recruiting or using children under 18 years (article 4). States parties are also required to take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices (article 4). The prohibition of recruitment is also enshrined in international labour law. The International Labor Organization's Convention No. 182 on the Worst Forms of Child Labor, ratified by Nigeria on 2 October 2002, declares that recruiting children below the age of 18 is “one of the worst forms of child labour” (article 3(a)). Recruitment of children for any purpose of exploitation, including participating in combat activities and support roles, also constitutes trafficking in persons and the consent of the children to join the groups is irrelevant, as per the definition set forth in article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo

Protocol), supplementing the United Nations Convention against Transnational Organized Crime, and ratified by Nigeria on 28 June 2001.

Trafficking in persons

International law prohibits trafficking in persons for all purposes, including sexual slavery, domestic servitude, recruitment and use, and child and forced marriage. Article 35 of the Convention of the Rights of the Child, ratified by Nigeria on 19 April 1991, requires States parties to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form. The recruitment of children for any purpose of exploitation constitutes trafficking in persons. As per the definition in the Palermo Protocol, in the case of children, it is also not necessary to prove that any means have been used, including deception or use of force. In the case of children, only the act, namely the recruitment, transportation, transfer, harbouring or receipt, and the purpose of exploitation, of any form, need to be established to identify a situation as trafficking in persons (article 3).

The Palermo Protocol requires States to identify, assist and protect victims of trafficking as stated in article 6, concerning assistance to and protection of victims of trafficking in persons, to ensure: a) appropriate housing; (b) counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand; (c) medical, psychological and material assistance; and (d) employment, educational and training opportunities. We highlight the obligation, as stated in article 6(4), requiring that: “Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.” Article 9 requires the protection of victims of trafficking in persons, especially women and children, from revictimization.

The principle of non-punishment of victims of trafficking must be recognized, as established in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, ratified by Nigeria on 28 June 2001 (see A/HRC/47/34, paras. 20-24, 28-31). This principle needs to be applied as soon as there are reasonable grounds to believe that a person has been trafficked and for any unlawful activity carried out by a trafficked person as a direct consequence of their trafficking situation, regardless of the gravity or seriousness of the offence committed (ibid, paras. 55-57). See also the recommendations of the Special Rapporteur on trafficking in persons, especially women and children, in her report to the General Assembly in 2021 on the intersections between trafficking and terrorism (A/76/263, para. 58).

Security Council resolution 2388 (2017) urged Member States to “assess the individual situation of persons released from the captivity of armed and terrorist groups so as to enable prompt identification of victims of trafficking, their treatment as victims of crime and to consider, in line with domestic legislation, not prosecuting or punishing victims of trafficking for unlawful activities they committed as a direct result of having been subjected to trafficking;” (para 17). See also the recommendations of the Special Rapporteur on trafficking in persons, especially women and children, in her report to the General Assembly in 2021 on the intersections between trafficking and terrorism (A/76/263, para. 58).

Slavery is prohibited under international law (Slavery Convention 1926; UDHR, article 4; ICCPR, article 8). We refer as well to the Slavery Convention of 1926, article 5 of the Slavery Convention of 1926 calls upon States to take appropriate measures to prevent forced or compulsory labour involving conditions similar to slavery. Article 7(2)(c) of the Rome Statute of the International Criminal Court provides that trafficking can amount to of the crime against humanity of enslavement, reflecting customary international criminal law: “[E]nslavement means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.”

Guiding Principles on Internal Displacement

The 1998 Guiding Principles on Internal Displacement affirm the obligation to respect international human rights law to prevent displacement (principle 5) and prohibit arbitrary displacement, including in armed conflict or when aimed at altering a population’s ethnic or religious composition (principle 6). Authorities must explore all feasible alternatives before displacing persons and, where unavoidable, minimize its impact and ensure safety, dignity, and family unity (principle 7). Displacement must follow legal procedures, ensure informed consent, provide full information, and guarantee effective remedies (principle 7(3)). It must not violate the rights to life, dignity, liberty, and security (principle 8), and special protection must be afforded to groups with strong ties to their land, such as indigenous peoples and minorities (principle 9). All displaced persons retain the right to physical, mental, and moral integrity (principle 11).