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Nigeria: Are human rights on the political agenda?

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As Mr Alhaji Umaru Musa Yar'adua takes office as President of Nigeria, Amnesty International is calling on the new president to place human rights at the top of his political agenda.

Over a number of years, Amnesty International has repeatedly expressed its concerns about the human rights abuses in Nigeria. These are not isolated events; they take place in a context of a general lack of respect for human rights. Although there have been considerable improvements in the human rights situation since the return to civilian rule in 1999, there remains a number of issues which give cause for grave concern, such as violence against women, the death penalty, extrajudicial executions, torture and ill-treatment, and impunity. The inauguration of the new government provides an opportunity to improve Nigeria's record for respecting, protecting and fulfilling human rights.

Amnesty International is calling on the new President to implement a clear agenda for human rights which should include the following ten points:

1. *Compliance with Nigeria's international and regional human rights obligations, as explicitly set out in the treaties it has ratified. Human rights should also be at the heart of Nigeria's foreign policy.*
2. *The abolition of the death penalty and in the immediate term, pending total legal abolition, a moratorium on imposition of death sentences.*
3. *An end to torture and other cruel, inhuman and degrading treatment or punishments, which often lead to death in custody, and extrajudicial executions.*
4. *A prompt and fair trial in accordance with international standards.*
5. *Significant reductions in the overcrowding in prisons and other places of detention.*
6. *The protection against abuses by armed groups, criminal gangs and vigilantes.*
7. *Stopping violence against women.*
8. *Stopping and preventing forced evictions.*
9. *The protection of and respect for the right to freedom of expression.*
10. *An end to impunity for perpetrators of human rights abuses.*

Ten point human rights agenda

1. Compliance with Nigeria's international and regional human rights obligations, as explicitly set out in the treaties it has ratified. Human rights should also be at the heart of Nigeria's foreign policy.

Nigeria has international legal obligations to respect, protect and fulfil the human rights for everyone within its jurisdiction, without discrimination on the basis of gender, ethnicity, social origin, political opinion or other prohibited grounds. These human rights include the right to life, the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, the right to a fair trial, the right to freedom of expression, including freedom to seek, receive and impart information and ideas, and the right to an adequate standard of living. Nigeria has explicitly accepted obligations in regard to these rights in the international and regional human rights treaties which it has ratified, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples' Rights. Many of these rights are also recognised in Nigeria's constitution.

Amnesty International calls on the new President to:

- take the necessary steps to ensure the prompt ratification, without reservations, of the following international human rights treaties: the first and second Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
- ensure that Nigeria complies with its reporting obligations under international and regional human rights treaties, by presenting its overdue periodic reports to the relevant treaty monitoring bodies.
- focus on the importance of upholding human rights principles in relation to Nigeria's foreign policy.

2. The abolition of the death penalty and in the immediate term, pending total legal abolition, a moratorium on imposition of death sentences.

Approximately 700 prisoners are on death row¹, more than 200 of them for over ten years.² Death sentences are imposed both by high courts and, in northern Nigeria, by *Sharia* courts. Convicts have the right to appeal to the Federal court of appeal. Amnesty International has no confirmation that any executions have been carried out since 2001. However, death sentences - including sentences of death by stoning under *Sharia* law - continue to be imposed.

Already in 2004, a National Study Group on the Death Penalty recommended the imposition of a moratorium on executions until the Nigerian justice system could guarantee fair trials and due process. However, the previous government did not act on this recommendation.

¹ *Special Rapporteur on torture concludes visit to Nigeria*, HR/07/35, 12 March 2007, see: <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/DC4834AE01D70CADC125729C003F776A?opendocument> (accessed 24 May 2007).

² Presidential Commission On Reform Of The Administration Of Justice, *Meeting on prison audit*, See: <http://www.pcraj.org/documents/Documents/papers%20reports%20publications/Meeting%20on%20Prison%20Audit.doc> (accessed 24 May 2007).

On 1 October 2006 the Federal Minister of Justice, Chief Bayo Ojo, announced that 107 death-row inmates would have their sentences commuted to life imprisonment as part of the country's Independence Day celebrations.

Amnesty International calls on the new President to:

- commit to abolish the death penalty in law and to commute all death sentences to life imprisonment.

3. An end to torture and other cruel, inhuman and degrading treatment or punishments, which often lead to death in custody, and extrajudicial executions.

The Nigeria Police Force and the State Security Service (SSS), Nigeria's intelligence agency, continue to be responsible for extrajudicial executions and acts of torture and other cruel, inhuman or degrading treatment, often leading to deaths in custody. The military are also frequently involved in extrajudicial executions and other human rights violations, particularly in the Niger Delta where they have a role in carrying out law enforcement functions.

The practice of extrajudicial executions and the remedial actions that the government should take to address it were reflected in the report presented by the UN Special rapporteur on extrajudicial, summary or arbitrary executions following his visit to Nigeria in 2005. Former President Obasanjo acknowledged, in August 2005, that extrajudicial executions and killings of suspects and innocent citizens by the police were widespread.³

There are cases of people being extrajudicially executed by the police for refusal to pay bribes, or during road checks. Other cases include shootings of suspected armed robbers on arrest and of detainees in custody.⁴

Moreover, many people in police custody are subjected to acts of torture and other ill-treatment. The UN Special Rapporteur on torture concluded that "torture and ill-treatment is widespread in police custody" and "torture is an intrinsic part of how law enforcement services operate within the country".⁵

In an attempt to justify these and other human rights violations, the police consistently refer to public concern over crime.

Amnesty International urges the new President to:

- take effective steps to make sure that all law enforcement officials and members of the armed forces comply with Nigeria's international legal obligations and its own constitution.
- bring to justice any police officers or other law enforcement officials suspected of being responsible for acts of torture or other ill-treatment or for extrajudicial executions, in accordance with international fair trial standards, and without recourse to the death penalty or other cruel, inhuman or degrading punishment.

³ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, of a mission to Nigeria, E/CN.4/2006/53/Add.4, 7 January 2006. See: <http://daccessdds.un.org/doc/UNDOC/GEN/G06/106/40/PDF/G0610640.pdf?OpenElement> (accessed 24 May 2007).

⁴ Amnesty International, *Nigeria: Abia State police kill 16 'armed robbers'*, (AI Index AFR 44/019/2006)

⁵ Special Rapporteur on torture concludes visit to Nigeria, HR/07/35, 12 March 2007, see: <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/DC4834AE01D70CADC125729C003F776A?opendocument> (accessed 24 May 2007).

4. A prompt and fair trial in accordance with international standards.

The majority of the prisoners have not had a trial. Magistrates frequently use the so called "holding charge", a practice to hold a detainee in custody indefinitely, pending the legal advice from the Director of Public Prosecutions. This has led to thousands of awaiting trial prisoners, whose dossiers have not been seen by the Office of the Prosecutor, a judge or even a lawyer. Sometimes prisoners await trial longer than the maximum period prescribed for their alleged offence.

Cases of detainees are often not even filed by the police or not sent to the office of the prosecutor to decide whether there is a case and whether the suspect should be brought to trial. This is frequently referred to as the main reason for the high level of awaiting trial detainees and the overcrowding of detention centres and prisons in Nigeria.

Of the almost 25,000 awaiting trial prisoners, three out of four have been charged with armed robbery and according to the UN Special Rapporteur on extrajudicial, summary or arbitrary executions: "three-quarters of those were not able to get legal assistance from the Legal Aid Council and a shocking 3.7 per cent remain in prison because of lost case files."⁶

Amnesty International calls on the new President to:

- ensure that all detainees are able to effectively exercise their right to promptly challenge the lawfulness of their detention before a court, and to ensure that they are immediately released if their detention is found to be unlawful.
- take effective steps to ensure prompt and fair trials for those accused of a criminal offence, in compliance with international and regional standards of fair trial.⁷

5. Significant reductions in the overcrowding in prisons and other places of detention.

The government estimates that there are approximately 40,000 inmates in prisons in Nigeria.⁸ Prisons are often unsanitary and overcrowded and prisoners lack food and access to medicines. Around 65 percent of the total prison population is awaiting trial, in some cases up to ten years.

In the past eight years, the high number of awaiting trial prisoners has been on the political agenda and several governmental working groups and committees were established to address this issue. However, the government did not take any effective measures and today's number of prisoners awaiting trial remains almost the same as in 2000. In February 2007, one of these commissions, the Presidential Commission on Reform of the Administration of Justice, recommended to review the status of several categories of inmates in Nigerian prisons and to release several categories.⁹ On 17 May, Nigeria's Information Minister said

⁶ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, of a mission to Nigeria*, E/CN.4/2006/53/Add.4, 7 January 2006. See: <http://daccessdds.un.org/doc/UNDOC/GEN/G06/106/40/PDF/G0610640.pdf?OpenElement> (accessed 24 May 2007).

⁷ Article 14 of the International Covenant on Civil and Political Rights recognizes these rights, including to a fair trial, the right to be presumed innocent until proven guilty and the right to defence, See: <http://www.ohchr.org/english/law/ccpr.htm>

⁸ Presidential Commission on Reform of the Administration of Justice in Nigeria, *Proposals for Reform of the Administration of Justice in Nigeria*, November 2006.

⁹ The Presidential Commission on Reform of the Administration of Justice recommended that all awaiting trial inmates who have spent over ten years in prison, who suffer life threatening diseases, or whose case files are lost and spent over five years in prison should be released. Prison inmates who have spent between ten and fifteen years on death row should have their sentences commuted to life and those who have spent over 15 years on death row should be released. See: Presidential Commission On Reform Of The Administration Of Justice, *Meeting on prison audit*,

that Nigeria had granted an amnesty to all prisoners over 70 and to those who are 60 years or older and have been on death row for ten years or more. According to the Minister, they would be released before the new president is inaugurated.¹⁰

Amnesty International urges the new President to:

- take all necessary steps to ensure that all awaiting trial prisoners are able to effectively exercise their right to promptly challenge the lawfulness of their detention before a court, and have a prompt and fair trial.
- make sure that the new government respects the United Nations Standard Minimum Rules for the Treatment of Prisoners.¹¹

6. The protection against abuses by armed groups, criminal gangs and vigilantes.

Especially in the Niger Delta there are many armed groups and criminal gangs; during past elections, some politicians reportedly sought the support of these groups to attack their opponents.¹² The oil of the Niger Delta area is a major source of government revenue and foreign exchange. However, this region is home to some of Nigeria's poorest people. People living in the Niger Delta benefit little from Nigeria's oil revenues. For example, they lack potable water and have few functioning schools or health care centres. The only visible government presence in many parts is a heavily-armed security apparatus deployed with the primary task of ensuring unhindered oil operations.

The theft of oil by illegal bunkering, under the control of powerful cartels, well-connected officials and armed gangs, is widespread. Pipelines are tapped with sophisticated equipment, often in broad daylight, and the oil is transported by barge or road tanker to the ports for sale on the international market. The massive profits from oil thefts have allowed a virtually uncontrolled inflow of weapons into the Niger Delta – from abroad and other parts of Nigeria.

Armed groups and gangs also attack production facilities and kidnap expatriate workers for ransom.

Armed gangs are not only active in the Niger Delta, but exist also in other parts of the country. As a result of widespread mistrust of the Nigerian police and the inadequate performance of the police in effectively tackling crime, vigilantes and armed groups have been formed at local and state level. Many of these groups have reportedly been involved in unlawfully detaining people, inflicting cruel, inhuman or degrading treatment on suspected criminals. Some of these groups are suspected of carrying out summary killings. As in the Delta, many groups reportedly have direct links with local and state officials and politicians; there are widespread allegations that they employ these armed vigilante groups to foment political violence.

Amnesty International calls on the new President to:

- guarantee adequate standards of living.
- protect all people against abuses of their rights by armed groups and gangs.

<http://www.pcrj.org/documents/Documents/papers%20reports%20publications/Meeting%20on%20Prison%20Audit.doc> (accessed 24 May 2007).

¹⁰ Reuters, Nigeria frees elderly prisoners before power shift, 17 May 2005.

¹¹ See: UN standard minimum rules for the treatment of prisoners, http://www.unhchr.ch/html/menu3/b/h_comp34.htm (accessed 24 May 2007)

¹² Amnesty International, *Nigeria: Impunity for political violence in the run-up to the 2007 elections* (AI Index: AFR 44/004/2007); Amnesty International, *Nigeria: Legal Defence and Assistance Project (LEDAP) and Amnesty International Joint statement on increasing political violence in the run-up to elections*, (AI Index: AFR 44/011/2003).

7. Stopping violence against women.

Although some of the Nigerian states have initiated a debate on legislation to protect women, violence against women remains widespread. Such violence includes domestic violence, rape, female genital mutilation and forced and early marriage. Women are beaten, raped and even murdered by members of their family. Parents and relatives force girls and young women into early marriage and the practice of female genital mutilation continues to traumatize young girls in many communities. The violence persists because discriminatory laws facilitate and in some cases legalize certain forms of violence against women.

Violence against women is not restricted to the family only, as there are frequent reports of police and security forces raping women and girls, in police detention and in prisons. Rape is sometimes used to intimidate communities.

The previous government has failed in its obligation to exercise due diligence: the perpetrators invariably escape punishment, and women and girls who have been raped or are victim of other violence against women are denied any form of redress for the serious abuses.¹³

Amnesty International urges the new President to:

- make a commitment to prohibit all forms of violence against women and girls in law and in practice.
- repeal laws that allow violence and discrimination against women to persist.

8. Stopping and preventing forced evictions.

An estimated two million people have been forcibly evicted from their homes since 2000. Individuals, families or communities were removed against their will by the authorities from their homes or land without access to appropriate legal or other protection. In several cases entire settlements have been destroyed, leaving men, women and children destitute. Many of these had no warning or were not consulted by the authorities prior to the evictions being carried out and most received no compensation or other form of reparation.¹⁴ Forced eviction is a violation of the right to adequate housing. In addition to depriving people of their homes, this is often associated with violations of other human rights including the rights to health, to education and to earn a living, the right to privacy and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Amnesty International calls on the new President to:

- take steps to make sure that everyone has security of tenure protecting them against forced eviction.
- comply with international human rights law and standards, if any evictions are carried out.
- ensure effective access to legal remedies to those who are affected by evictions.¹⁵

¹³ Amnesty International, *Nigeria: Rape the silent weapon*, (AI Index AFR 44/020/2006).

¹⁴ Amnesty International, *Nigeria: Making the destitute homeless - forced evictions in Makoko, Lagos State*(AI Index: AFR 44/001/2006).

¹⁵ See: International Covenant on Economic Social and Cultural Rights (ICESCR), article 11, http://www.unhchr.ch/html/menu3/b/a_cesscr.htm (accessed 24 May 2007).

9. *Respect for and protection of the right to freedom of expression.*

In the past months government intolerance of criticism has led to several cases of violations of the freedom of expression. As tension increased in the run-up and after the 2007 elections Amnesty International received several reports of politically-motivated repression and intimidation of journalists. The State Security Service has repeatedly raided offices of newspapers, radio stations and television, seized documents and several journalists have been detained and questioned for hours.

Amnesty International calls on the new President to:

- ensure that the government respects the freedom of expression.
- guarantee that no journalists are detained or subjected to harassment for exercising their right to freedom of expression.

10. *An end to impunity for perpetrators of human rights abuses.*

Impunity is a serious threat to the effective realization of human rights in Nigeria. The previous government has failed to address the entrenched culture of impunity for human rights abuses. Many cases of unlawful killings, torture and other ill-treatment, and violence against women remain unsolved and the perpetrators are not brought to justice. As a result of the authorities' failure to effectively investigate and prosecute serious human rights abuses, confidence in the criminal justice system in Nigeria is very low among victims and the general public. Only effective accountability for human rights abuses and bringing to justice those responsible will improve confidence in the justice system and will help to bring an end to the cycle of impunity.

Amnesty International urges on the new President to:

- take effective steps to bring an end to impunity.
- ensure that perpetrators are brought to justice in a fair trial, in accordance with international human rights standards.