



**Nigeria**

# **Prisoners' rights systematically flouted**

**February 2008**

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**Cover:** Inmates awaiting trial: "At times we are sick. We are suffering here." © PRAWA

**Back cover (from top):** Amnesty International interviewing a prisoner on death row. "I've been here 18 years. We need help." © PRAWA

**Women inmates in prison** © AI



# Nigeria

## Prisoners' rights systematically flouted

### Glossary

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## GLOSSARY

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CID	Criminal Investigation Department
CLO	Civil Liberty Organization
CPA	Criminal Procedure Act
CPC	Criminal Procedure Code
DPP	Director of Public Prosecution
EFCC	Economic and Financial Crimes Commission
FCT	Federal Capital Territory
HURILAWS	Human Rights Law Service
ICCPR	International Covenant on Civil and Political Rights
ICESR	International Covenant on Economic, Social and Cultural Rights
IPO	Investigating Police Officer
LAC	Legal Aid Council
LEDAP	Legal Defence and Assistance Project
LRC	Legal Resources Consortium
NGN	Nigerian Naira (currency)
NGO	Non-governmental organization
NHRC	National Human Rights Commission
PCRAJ	Presidential Commission on the Reform of the Administration of Justice
PRAWA	Prisoners Rehabilitation and Welfare Action
SMR	UN Standard Minimum Rules for the Treatment of Prisoners
State CID	Criminal Investigation Department at state level
UNODC	United Nations Office on Drugs and Crime

*Limited legal protection, unequal access to justice perpetuate a situation in which the poor and other vulnerable groups are highly susceptible to arrest and subsequent imprisonment.*

...

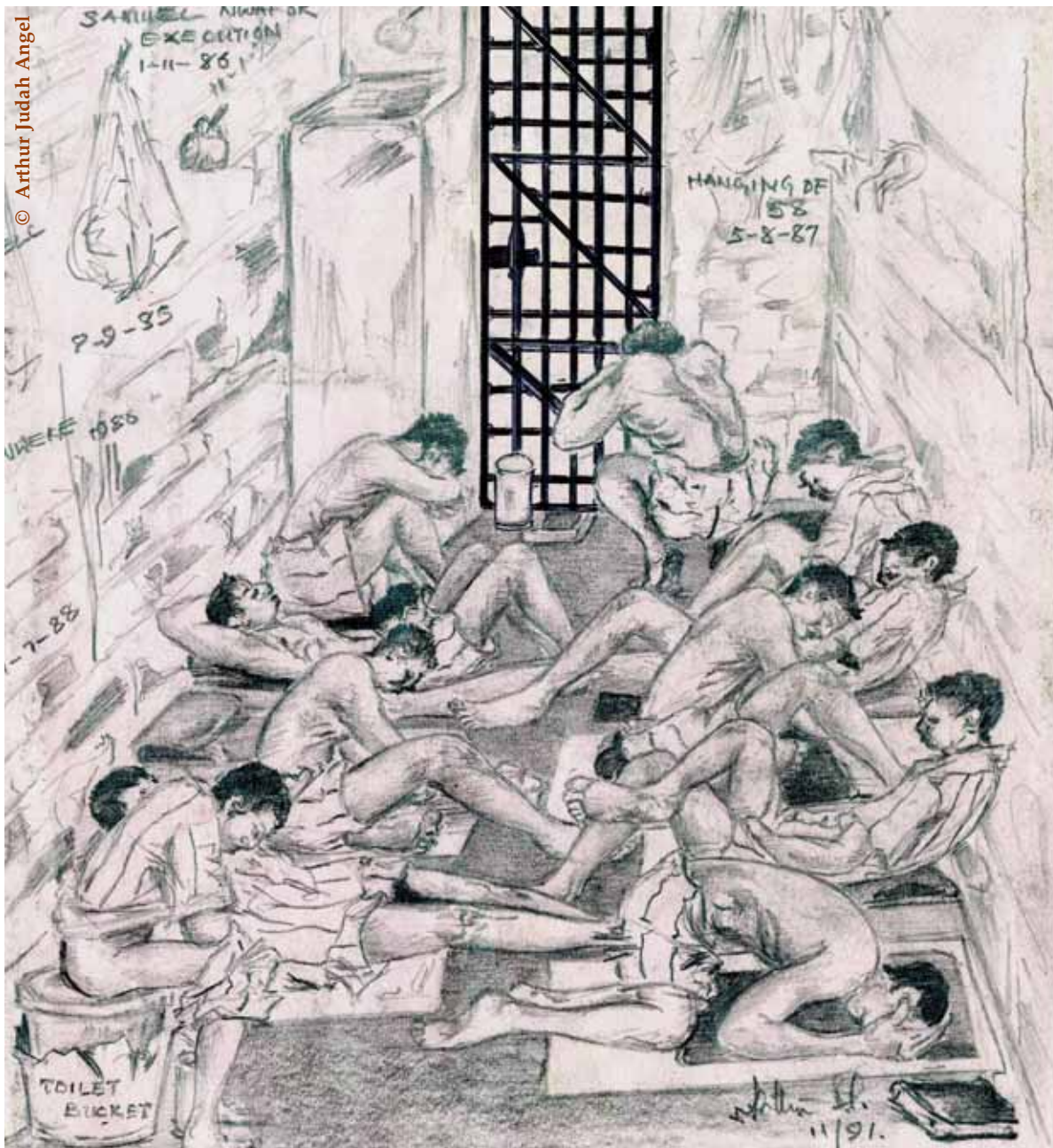
*this phenomenon, the criminalisation of poverty, should have no place in the administration of justice in Nigeria.*

...

*Finding a sustainable and lasting solution to prison overcrowding should go hand in hand with the administrative and judicial release of inmates who do not have to be in prison. It cannot be fair or in compliance with our constitutional human rights guarantees and our international human rights obligations to ask a person who has waited without trial in prison for up to 10 years to continue to wait until such a time when solutions are found to the problem of prison congestion. This is more so given the overcrowded and unsanitary situation of most of our prisons and its damaging effect on the physical and mental health of inmates.*

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





## Our ugly world

*"Our little cell rooms measured about seven feet by eight feet. We would bathe, sleep eat, defecate, piss, play and pray in there. For us, it was our entire world."*

Drawing depicting life on death row in Enugu prison, Nigeria, by former inmate Arthur Judah Angel.

# 1. Introduction

Nigeria's prisons are filled with people whose human rights are systematically violated. Approximately 65 per cent of the inmates are awaiting trial most of whom have been waiting for their trial for years. Most of the people in Nigeria's prisons are too poor to be able to pay lawyers, and only one in seven of those awaiting trial have private legal representation. Although governmental legal aid exists, there are too few legal aid lawyers for all the cases that require representation.

Living conditions in the prisons are appalling. They are damaging to the physical and mental well-being of inmates and in many cases constitute clear threats to health. Conditions such as overcrowding, poor sanitation, lack of food and medicines and denial of contact with families and friends fall short of UN standards for the treatment of prisoners. The worst conditions constitute ill-treatment. In many Nigerian prisons inmates sleep two to a bed or on the floor in filthy cells. Toilets are blocked and overflowing or simply non-existent, and there is no running water. As a result, disease is widespread.

Most prisons have small clinics or sick bays which lack medicines, and in many prisons inmates have to pay for their own medicines. Guards frequently demand that inmates pay bribes for such "privileges" as visiting the hospital, receiving visitors, contacting their families and, in some cases, being allowed outside their cells at all. Prisoners with money may be even allowed mobile phones, whereas those without funds can be left languishing in their cells. One inmate said: "If you don't have money, if you come to prison, you will suffer. They collect money from you. It is not right."

The Nigerian government has, on numerous occasions, stated its willingness to reform the criminal justice system, acknowledging its role in creating a situation of prolonged detention and overcrowding. Despite many Presidential Commissions and Committees recommending reform of the criminal justice system, these recommendations have not been implemented. Instead, the government has simply set up new committees and commissions to study, review and harmonize the previous recommendations. The reality remains that those in prison stand little chance of their rights being respected. Those who lack money stand even less chance.

## 1.1 Amnesty International's research

In July 2007 Amnesty International delegates visited 10 prisons in the Federal Capital Territory (FCT) and Enugu, Lagos and Kano States. The delegates also visited a psychiatric hospital in Enugu State which housed a number of people with mental illnesses who had been transferred there from prison. These locations were chosen to ensure a geographic, ethnic and religious spread across the country. The prisons included a mixture of some of Nigeria's main detention facilities as well as small prisons in rural areas.

The delegates conducted interviews with prison directors, medical staff, wardens and around 250 prisoners. These included 55 women; almost 160 prisoners who were awaiting trial; and 37 who had been sentenced to death. In most prisons the delegates spoke to inmates in private and in some they interviewed them through the bars of their cells. The Amnesty International delegates also spoke to state Commissioners of Police, state Attorneys General, judges, magistrates, lawyers, and human rights non-governmental organizations (NGOs). At federal level, Amnesty International had meetings with the National Human Rights Commission (NHRC), the Legal Aid Council (LAC) and senior representatives of the Nigeria Police Force. Unfortunately, the delegates were not able to meet with the Minister of Interior or the Attorney General and Minister of Justice, who had other obligations following their recent appointment.

Amnesty International's researchers enjoyed full access to all the prisons they visited, and appreciated the co-operation of the headquarters of the Nigeria Prison Service in preparing for the visit, as well as during the visit itself. Amnesty International regrets that the delegates' meeting with the Comptroller General of Prisons, scheduled several weeks before their visit and confirmed twice, was cancelled only minutes before it was due, because, according to the prison authorities, they required clearance from the Ministry of Foreign Affairs.

After leaving Nigeria, Amnesty International shared its findings in writing with the Federal Minister of Interior, the Attorney General and the Minister of Justice and the Comptroller General of Prisons and asked for reactions and clarification. At the time of going to press, only the Minister of Interior had responded, saying that "The Nigerian government is not unaware of most of the observations... The various ongoing reform initiatives are intended to provide short, medium and long-term solutions to most of the nagging problems."

This report is based on testimonies of inmates and on the interviews held with all stakeholders. To respect the confidentiality of the people concerned, Amnesty International has not used the inmates' real names.

Nigeria





## 1.2 Government failure to implement recommended reforms

Many national and international organizations<sup>1</sup> have warned the Nigerian government of the human rights violations occurring in the criminal justice system. In recent years, the Nigerian government has frequently expressed willingness to improve prison conditions and access to justice for those on pre-trial detention (inmates awaiting trial). The establishment of a Presidential Taskforce on Prison Reforms and Decongestion led to the release of around 8,000 prisoners in 1999. However, no long-term policy was adopted to address the problems in prisons and within a few years they were as congested as they had been before the release.

In June 2001, the then Minister of Interior, Chief Sunday Afolabi, said that the government would review prison laws and prison reform, train personnel, rehabilitate inmates and revitalize the prison system with the Prison Reforms Program. It is reported to have spent NGN2.4 billion.<sup>2</sup> In July 2002 President Olusegun Obasanjo, himself a former inmate, described the situation of inmates awaiting trial as "inhuman".<sup>3</sup> Since 2000, several working groups and committees on prison reforms have been established:

- The **National Working Group on Prison Reform and Decongestion** reviewed 144 prisons and revealed in its 2005 report that the population of Nigerian prisons over the previous 10 years had totalled between 40,000 and 45,000 inmates, most of them concentrated in the state capitals. Of those, 65 per cent were awaiting trial.<sup>4</sup>
- The **Inter-Ministerial Summit on the State of Remand Inmates in Nigeria's Prisons** was established in 2005 to review the report of the previous Working Group on Prison Reform. It recommended the Federal Government respond to the problem of inmates awaiting trial, pay more attention to rehabilitation, and address the issue of the large number of inmates awaiting trial due to the shortage of defence counsel. In addition, it recommended the appointment of a Chief Inspector of Prisons and a Board of Visitors. Following these recommendations, the Minister of Justice stated in October 2005 that the Federal Executive Council was considering the appointment of an independent Chief Inspector of Prisons.<sup>5</sup>
- In 2006, the **Presidential Committee on Prison Reform and Rehabilitation** was established. This committee recommended improving the conditions of service of prison and police officials, and addressing the issues of prison congestion and the large number of prisoners awaiting trial. When then President Obasanjo received the committee's report, he said that the Federal Government would implement its recommendations.<sup>6</sup>
- The **Presidential Commission on the Reform of the Administration of Justice** (PCRAJ), established on 16 March 2006 to review the administration of justice in Nigeria and propose sustainable reforms, expressed concern that imprisonment was being overused, including in cases of the non-violent persons suspected of minor offences.<sup>7</sup> The President's response was to ask the Commission to carry out further research – this time a case-by-case audit of the categories of inmates. Following this request, the PCRAJ published a categorized list of 552 inmates recommended for release.<sup>8</sup>

- The **Committee on the Harmonization of Reports of Presidential Committees Working on Justice Sector Reform** reiterated in April 2007 the recommendations of the PCRAJ.<sup>9</sup>

In January 2008 the Federal Minister of Interior stated that a committee would be established to monitor the activities of inmates and prison officers in order to ensure international standards are met.<sup>10</sup>

On several occasions the Nigerian government stated its intention to release inmates. On 4 January 2006 the government announced that it was going to speed up the trials of and/or unconditionally release up to 25,000 prisoners.<sup>11</sup> At the end of August 2006, the Minister of Justice stated that 10,000 inmates would be released, saying: "We have embarked on a massive decongestion of prisons, and 10,000 prisoners have been cleared for release. Some are already out."<sup>12</sup> The government did not make public whether any prisoners were, in fact, released, and the number of inmates awaiting trial did not diminish.

After all the recommendations made by these Presidential Commissions and Committees, on 17 May 2007 Nigeria's Information Minister announced that Nigeria had granted an amnesty to all prisoners over 70 and to those aged 60 or over who had been on death row for 10 years or more. According to the Minister they would be released before the inauguration of the new president.<sup>13</sup> The government, however, did not announce whether this had been acted upon. Amnesty International has received no reports confirming whether or not these prisoners have been released.

Over a period of years, the government has allocated funds for decongesting and rehabilitating prisons.<sup>14</sup> It is unclear, however, whether the prisons received this money. Amnesty International saw new cells being constructed in only three of the prisons visited by its researchers.

## 1.3 The impact of government reforms

A draft prison bill was presented to the National Assembly in 2004.<sup>15</sup> However, by the end of 2007 this bill had still not passed into law. Neither had the Police Act (Amendment) Bill, nor any of the other acts aimed at reforming the criminal justice system.<sup>16</sup>

The government has, on several occasions in 2006 and 2007, announced that it would release considerable numbers of inmates, including those awaiting trial and those on death row. This raised the expectations of inmates but did not lead to their release. In the prisons Amnesty International visited in July 2007, none of the inmates whose release had been announced in May 2007 had actually been released. The prison authorities said that this was "due to an administrative procedure". It is not clear how many prisoners – if any – were in fact released.

The number of committees established by the government and the increase in allocated budget over the years could indicate that the welfare of Nigeria's prison population is of concern to the authorities. One committee is reported to have said: "If you want to know how much a nation cares for its citizens you should go to its prisons."<sup>17</sup>

Amnesty International concludes that Nigeria does not take seriously its responsibility towards its citizens in prison. Recommendations made by national and international organizations have failed to lead to any action by the government. The recommendations of all governmental committees and commissions appear to be little more than words, which have left the real situation in Nigeria's prisons unchanged. Inmates awaiting trial – especially those who cannot afford legal support – wait years for their trial to take place; the prisons remain overcrowded; prison authorities do not appear to receive the funds that have been allocated to improving conditions. Amnesty International is extremely concerned that few of the Nigerian government's promises have been translated into action.

## 1.4 Nigeria's international obligations

Nigeria became a member of the United Nations in 1960 and is obliged to comply with the UN Universal Declaration of Human Rights. In addition, Nigeria has ratified several other international and regional human rights instruments:

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD), ratified on 4 January 1969;
- African Charter on Human and Peoples' Rights, ratified on 22 June 1983;
- Convention on the Rights of the Child (CRC), ratified 19 April 1991;
- International Covenant on Civil and Political Rights (ICCPR), ratified on 29 October 1993;
- International Covenant on Economic, Social and Cultural Rights (ICESR), ratified on 29 October 1993;
- African Charter on the Rights and Welfare of the Child, ratified on 23 July 2001;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified on 28 July 2001;
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified on 13 June 1985 and its Optional Protocol on 22 November 2004.

Nigeria's human rights obligations extend to those who are in its prisons. Being deprived of one's liberty does not mean forfeiting other human rights. The UN Basic Principles for the Treatment of Prisoners (Principle 5) states:

*"Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants."*

For prisoners, as for everyone, the right to life and the prohibition of torture and ill-treatment must be respected at all times. Furthermore, Article 10(1) of the International Covenant on Civil and Political Rights (ICCPR) states:

*"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."*

In addition to the broad provisions of general human rights treaties, the UN and other intergovernmental organizations have developed comprehensive standards on conditions of detention over the years. In 1955 the UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules) were adopted, representing "as a whole, the minimum conditions which are accepted as suitable by the United Nations" (para 2). Most of the rules apply not only to convicted prisoners but to people in pre-trial detention and people held without charge (para 4(2) and Rule 95).

A poster – Human rights in prison – produced by the non-governmental organization PRAWA



## 2. The judicial system

Human rights violations are prevalent in Nigeria's judicial system. Arbitrary arrest and detention, torture and failure to hold trials within reasonable time are features of many inmates' experience. Some are sentenced to cruel judicial punishments or the death penalty.

### 2.1 Arbitrary arrest and detention

*"This woman did not do anything. She is in prison because her son fought with someone. They could not get him."*

A prison officer, July 2007

All too often, individuals who are not suspected of committing any crime are incarcerated in Nigeria's prisons along with those suspected or convicted of crimes. Some were arrested in place of a family member whom the police could not locate. Others suffer from mental illness and were brought to prison to relieve their families of responsibility for their care. Most are very poor people who have no lawyer to advocate for them.

In one such case, Bassy (35) was brought to prison by her brother. She needed treatment for her mental illness, and her family could not cope with her any longer. The prison authorities classified her as a "civil lunatic" and she spent almost three years in prison. "I slept on the floor in a cell with 11 women. We all slept on the floor. They did not allow us to go out," she said. Accused of no crime and never brought before a judge, she remained in prison until PRAWA, a non-governmental organization, intervened. Uju Agamoh, PRAWA's director, explained, "By cooperating with the prison, the judiciary and the psychiatric hospital, we managed to transfer Bassy and several other mentally ill prisoners to the psychiatric hospital where they are receiving treatment."<sup>18</sup>

When the state arrests and imprisons someone solely because she is the relative of a suspect or because she suffers from mental illness, it violates her right not to be subjected to arbitrary arrest or detention, a right guaranteed by Article 9 of the Universal Declaration of Human Rights, Article 9(1) of the ICCPR, and Article 6 of the African Charter, and the Nigerian Constitution.<sup>19</sup>

All those who are arrested have the right to be brought before a judge promptly, according to Article 9 of the International Covenant on Civil and Political Rights (ICCPR), to which Nigeria is a party. These legal provisions should be enforced to prevent arbitrary arrests and detention, and to safeguard the right to liberty. They enable the judge or judicial officer to assess whether an arrest is lawful and if pre-trial detention is necessary, as well as



providing an opportunity to investigate whether torture has been used, and find out if the suspect has a lawyer. For the suspect, this is the first opportunity to challenge the lawfulness of the detention, which is an ongoing right: according to the ICCPR anyone deprived of their liberty should have their case reviewed by a court or other authority at reasonable intervals.<sup>20</sup> The judge is tasked with preventing violations of the fundamental rights of the suspect, including torture, ill treatment and arbitrary arrest.

The Nigerian Constitution (Section 35) guarantees the right to be brought before a court of law within a reasonable time. If there is a court of competent jurisdiction within 40km, a reasonable time is defined as one day; in all other cases "reasonable" is considered to be two days or longer, depending on the distances and circumstances.<sup>21</sup> In practice, this is hardly ever accomplished. The Nigeria Police Force claim they cannot investigate a crime and interrogate suspects within such a short time, saying: "There is no case that you can crack within 24 hours unless it is a traffic offence."<sup>22</sup>

Individuals who are charged with crimes are routinely held in pre-trial detention for extended periods, even when there is little evidence to support the charge, where the accused person poses little or no risk to society, or where the crime is not a serious one. If Amnesty International's interviews are any indication, pre-trial detention routinely exceeds one year, and three to four years is not unusual. In a typical account, one inmate told Amnesty International, "I have been here three years. No progress – no bail. They just keep adjourning. I cannot see what is happening in my case."

In virtually every prison, Amnesty International researchers spoke to some inmates who reported that they had been awaiting trial for seven years or more. For example, Sunday spent nearly 40 days in police and State CID detention before he was first brought before a magistrate on 27 December 1999. He was 17 years old at the time and had been arrested on suspicion of culpable homicide. The magistrate did not have the jurisdiction to handle his case and remanded him to prison pending a police investigation, a practice known as a "holding charge". At the time of Amnesty International's visit, seven years and eight months had passed, and he was still awaiting trial. The last time Sunday was in court was in September 2006, and his case was once more adjourned. The Magistrate Court continues to use the holding charge to keep him imprisoned. Sunday is now 25 years old and has spent nearly one-third of his life awaiting trial.<sup>23</sup>

The use of holding charges to detain suspects for protracted periods is not unusual. Over the years, the Nigerian police have systematically sent suspects of capital offences, such as armed robbery or murder, to a Magistrate Court instead of following the statutory procedure of sending the case to the prosecutor of the Ministry of Justice for a decision about whether or not to take the case to the High Court. Magistrate Courts usually remand suspects to prison pending a police investigation. In many cases this takes several years. This common practice gives unusual powers to the police to increase the pressure on suspects to confess to crimes they may not have committed. By confessing, suspects hope to escape being remanded to prison where they may await trial for years. In 1993 the Nigerian Federal Court of Appeal said that the Constitution or any law in force "does not provide for a holding charge."<sup>24</sup> The Supreme Court overturned this decision, arguing that the use of the holding charge is not a violation of the Constitution and it remains in common use. According to the Prison Audit, almost 40 per cent of the inmates awaiting trial were remanded to prison on a holding charge. It is often referred to as the main reason for the high number of inmates awaiting trial.

One inmate interviewed by Amnesty International appears to be at risk of remaining in prison indefinitely. Solomon (20) is suspected of a murder committed in November 2001. He was 14 when he was arrested. He was brought before a Magistrate Court and, pending police investigation, was remanded to prison. For over five years he has never been to court. Even the prison staff do not know what to do for him, saying: "This boy, he has no lawyer, he never goes to court." He shares a cell with more than 70 adult men – all awaiting trial – and is only allowed outside his cell once a week and never receives visitors. "My family does not know I am in prison; they might think I am dead."<sup>25</sup>

Amnesty International is very concerned about the fact that many inmates awaiting trial in Nigerian prisons effectively seem to be presumed guilty. They remain in pre-trial detention even though there is not enough evidence of their involvement in the crime of which they are suspected. Under Article 11 of the Universal Declaration and Article 14(2) of the ICCPR, all inmates awaiting trial have the right to be presumed innocent until proved guilty. The Nigerian Constitution clearly guarantees this right in article 36(5).<sup>26</sup>

According to the principle of the presumption of innocence, the prosecution must prove that the accused person is guilty. If there is reasonable doubt due to lack of evidence or witnesses, or because the prosecutors are not available to come to court, the accused should not be found guilty nor remanded in prison indefinitely.

As a general rule, people awaiting trial should not be held in custody. International standards do recognize specific circumstances under which someone might await trial in prison, such as to prevent the suspect from fleeing, interfering with witnesses, or if the suspect poses a serious risk, but pre-trial detention should always be the exception, rather than the rule, and should be as short as possible.<sup>27</sup> Article 9(3) of the ICCPR states:

*"It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement."*

## 2.2 The failure to bring to trial within a reasonable time

The trials of many inmates interviewed by Amnesty International had started, however they described repeated court appearances with no progress in their cases, often because witnesses do not appear. An inmate in Kuje prison reported: "I was arrested on 5 March 2003, for a killing. Since that time to date, nobody has come to court to testify. The case has been going on, but there are no witnesses until now. It has been four years now, always adjournments." The unavailability of witnesses should have led to this inmate's release. But magistrates and judges more often adjourn such cases than discharge the suspects. Another inmate said: "Since 2003, nobody came to prosecute the case. There is no complainant. I just continue going to court. They asked me to wait for the DPP advice."<sup>28</sup>

Ibrahim (27), suspected of robbery, has not been to court for six months. He was arrested in February 2005. After three months he was brought to a court – he had spent a month in the

*"Nobody want to go to prison, but there are people there always... But why me?"*  
**Arthur Judah Angel**



**Drawing depicting life on death row in Enugu prison, Nigeria, by former inmate Arthur Judah Angel**

police station followed by two months in State CID detention. His stay with the State CID was particularly hard because he was threatened and beaten. He paid money to facilitate his release, and says: "I gave them money, first time NGN7,000 and second time NGN10,000. Then they said they would take me to court." The court remanded him to prison and did not grant him bail. He did not confess. Ibrahim claims he has already waited two years for the claimed witness to be produced. He says: "The prosecutor said he has a witness, but he has never brought him to court. The judge promised me that if there is again no witness, he will release me."

Muhammad Zubair, a human rights lawyer based in Kano State attributed delays of this kind to the lack of trained prosecutors: "Even though police officers are not trained lawyers, they are in many cases responsible for the prosecution. The government should appoint more legal prosecutors, who can handle the cases more efficiently and without delays."<sup>29</sup>

Witnesses often fail to appear because police lack the funds to bring investigating police officers or witnesses to court. Some judges or magistrates even pay the costs of fuel to ensure that police officers or witnesses turn up in court.<sup>30</sup> Those inmates who can afford to, may pay for these costs.<sup>31</sup> Those who cannot afford to pay remain in prison untried and without remedy.

Other inmates report that their cases are stalled because the case file has been lost. The trial of Mathias (26) started 22 months after he had been remanded to prison by a Magistrate Court. Suspected of kidnapping a 10-year-old child, he was arrested in August 2003 and spent 15 days in a police station. He told Amnesty International that he did not confess to the crime. Not long after he had been remanded to prison, the child was found. However this led neither to his release nor to his case being concluded. He has not been to court since September 2005, he says. "They said the case file was lost," he told Amnesty International. His record file indicates that his case was transferred to the High Court. The prison authorities brought him before both the Magistrate Court and the High Court, but he reported that both courts said that they did not have his file. Mathias said: "I have talked to the welfare officer. He says I need a lawyer or somebody who will come."<sup>32</sup> Unless Mathias' case file is found or a lawyer takes up his case, he could remain in prison indefinitely.

Amnesty International encountered several other inmates awaiting trial whose case files, like those of Mathias, had been lost and who, as a result, had not appeared in court for extended periods of time – in some cases years. In Suleja prison alone, there are at least 11 inmates whose files have been lost.<sup>33</sup> According to Adamu Ja'afaru, legal officer at the non-

## Adjournments

Many prisoners complained about their cases being repeatedly adjourned. Some claimed that they had been to court 20 or even 30 times without any progress in their cases.

According to the Legal Aid Council statistics for July 2007, 59 lawyers provided representation in 763 court cases. Over 65 per cent of these were adjourned. The reasons that were given for this included: the court was not sitting; the witness was not in court; the DPP advice had not yet been given; the judge was occupied in an election tribunal; or the judge or magistrate was on holiday. Bail was granted in only 2 per cent of the cases.

Almost 20 per cent of the cases brought in July 2007 were dismissed. Prosecutors secured convictions in less than 3 per cent of the cases.<sup>34</sup>

governmental organization HURILAWS: "It is a huge problem. There is no provision to make sure the police present the results of its investigation to the court. This has led to many forgotten cases."<sup>35</sup>

The right to a fair trial includes the right to receive judgement within a reasonable time. Amnesty International interviewed several people whose cases were almost concluded and who were waiting for a decision from the judge. For example, in the case of businessman Stephen (53) and student Yusuf (29), whose co-defendants said that neither had been involved in conspiracy to a murder committed in January 2005, all the witnesses have been heard and all stated these two men were not part of the murder. "The case has ended. I have been waiting for the verdict since May," said Stephen. "Everybody knows we are innocent," said Yusuf.<sup>36</sup> In January 2008, both men were still waiting for their verdict.

## 2.3 Confessions coerced through torture

*"They beat me and asked: 'Where is the gun that you used?'"*

**Inmate awaiting trial, July 2007**

Samuel (45) was incarcerated as a result of the theft of a motorcycle belonging to a police officer. He was arrested on 9 May 2007 and spent nine days in the police station. During these nine days he was severely beaten while hanging upside down until he was unconscious. "The first time there were four police officers who beat me, the second time three, the third time five and the fourth time seven. They beat me with a stick and asked why I took the motorcycle. After three, four or five minutes of this, I would be unconscious." At the time of the interview, his legs still showed marks of the beatings.<sup>37</sup>

Another inmate who was forced to confess is Emmanuel (29), because, he said: "The state CID wanted to kill me, they beat me, they killed people beside me and shot some, so I confessed." He has been awaiting trial for almost seven years. He has no lawyer. He was working as a market salesman when, one evening, a man was robbed in the market. The police arrested many salesmen, Emmanuel among them. Although he was not identified by the victim, he and three other suspects were remanded to prison. Only one was released on bail; this was the only suspect who had a lawyer.<sup>38</sup>

Other inmates described such beatings at the hands of police, either upon arrest or at the station. In many cases, the beatings were accompanied by demands for a confession or other information. Another inmate told Amnesty International that state CID officers used handcuffs on him and tied rope around his wrist and forearms: "They put me up very high. When I came down, I could not feel anything. There was no blood in my veins. I was like ice."

One man in Kano Central told Amnesty International that police had broken one of his legs while he was in their custody. "They broke it with a stick in the CID. They broke it for me to say what I have not done."<sup>39</sup>

An inmate in Kuje prison said: "The police use pliers [here he pointed to his teeth], they say I should give them the gun. On 28 November 2003, that was when they do this thing."



© AI

**A prison inmate who says he was tortured by police**

This was at the police station, at Maitame police station. They asked me questions. Where was my gun? I tell them I have no gun. Then they did this to my teeth." He opened his mouth to show a gap in his teeth. "There were six police who were there. I know their faces. They also handcuffed me and hung me up. They put an iron in between my legs and hung me up in the middle of two tables. They tortured me. I told them I don't know anything; I'm innocent."<sup>40</sup>

Another inmate said: "The police force me to say what I don't know. I have been going to court, but they don't want to give me bail." He was held at a police station from December 2006 to March 2007. "They used handcuffs and rubber. They tie me down. This was in March. They used rubber and tied me with handcuffs. They tied me up. They asked me questions to write what I don't know. They did this for three or four hours."<sup>41</sup>

In other cases, the motive appeared to be to punish the victim for his or her presumed wrongdoing, as in the case of one inmate who recalled, "The police used rubber to tie my hands and arms. They said I had committed robbery." His

palms were blistered and peeling and his arms were crisscrossed with dark lines as a result of the wounds. His left hand hung limp at his side.

Women also reported that they had been tortured but were reluctant to provide detailed testimonies. One woman told researchers that she had been "touched" by a policeman. She appeared to be indicating that she had been raped. NGOs confirmed that women use this wording to describe incidents of rape. One woman explained that her pregnancy saved her from torture: "The police officer brought a stick and said he had broken legs with it. I told him I was pregnant. He did not beat me."<sup>42</sup>

The severity of these acts was beyond doubt: Amnesty International researchers heard accounts and in many cases saw scars, bruises, and dried blood, which indicated beatings serious enough to require medical care – care that many inmates did not receive. In one case, Amnesty International spoke to an inmate who had spent five months recovering in hospital from a police beating.

Abuses such as these amount to torture, the deliberate infliction of severe physical or mental suffering for a purpose such as eliciting a confession or punishing an individual. International law and the Nigerian Constitution flatly prohibit torture.

Nevertheless, prison officials report that it is common for them to receive prisoners who bear unmistakable signs of having been tortured at the hands of police. A prison official explained, "That is one of the problems we are facing with the police. At times they are just



beating people. They just beat them up." The State CID, in particular, use torture as a method of investigation.<sup>43</sup>

Senior police officials at the federal headquarters of the Nigeria Police Force confirmed to Amnesty International that they have received reports of torture, and say that they are addressing these "unconventional" ways of interviewing. "We are aware of what happens in police custody. If a policeman uses torture, sanctions are taken."

In practice, though, any actions taken by the Nigeria Police Force have failed to end the use of torture in interrogating suspects. Far from taking effective measures to end the frequent use of torture, as the Nigerian National Human Rights Commission highlights in their report on the state of human rights, the government has allowed widespread torture to be carried out with impunity.<sup>44</sup> Moreover, in many cases the confession extracted by torture is used as evidence in the case, contrary to international standards.<sup>45</sup>

The use of torture by the police to extract confessions should always be questioned in court. When torture is suspected, the judge can decide to open a "trial within a trial" for proof of duress. In line with the presumption of innocence, the prosecutor has to prove that a statement was made voluntarily. In many cases, when an injured inmate is admitted to prison, he is first treated in the hospital. The long periods of remand make it difficult for suspects to demonstrate that they have been forced to confess. Lawyers stress that by the time suspects go to court, their injuries have often become no more than marks, saying: "That makes it hard to prove it was torture."

Joseph Otteh, director of the NGO Access to Justice, explained that victims of police torture are, almost without exception, very poor people. He said: "Many judicial officers simply turn a blind eye to suspects whose injuries clearly show they have been tortured. The fight against police torture will remain weak unless the judiciary use their legal powers."<sup>46</sup>

## Police detention

As bad as conditions are in Nigeria's prisons, inmates told Amnesty International that they had endured much worse in police lockups. "There were no beds," one man reported. "We had to lie on the ground. And it's dark – no windows. The toilet was outside. We used the toilet inside in a bucket."<sup>47</sup>

Another man told Amnesty International about his stay in police detention: "I was not beaten there, but I was left to stay in hunger. I only had 100 naira on me. After I spent that, nobody gave me food. So I had no food for the remaining days."

Many inmates told Amnesty International that in the police cell they met people for the first time who became their co-defendants. One inmate said: "I am attached to other people who were in the same cell. I did not know them."

Detention in police lockups is intended to be for a short time, but Amnesty International heard from inmates who were held in police cells for protracted periods. "I was supposed to stay there three days, but I was held up to four months. I was not given access to talk to my lawyer. There was a lot of intimidation," one man told Amnesty International's researcher.<sup>48</sup> According to Damian Ugwu of the Civil Liberties Organization (CLO): "We have seen cases of suspects who have been in police custody for over one year."

If a suspect makes a statement under pressure, threat or torture, it must not be used as evidence in court. The prosecutor has a responsibility to prove that the statement has been made voluntarily. Section 28 of the Evidence Act, Laws of the Federal Republic of Nigeria, is clear on the prohibition of using information extracted from the suspect by means of threats, promises or force, stating: "A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the court to have been caused by any inducement, threat or promise..."<sup>49</sup>

## 2.4 No legal counsel

*"I have no lawyer; there is nobody to stand for me. There is nobody to fight for me."*

*"I had a lawyer, but he is never in court. That is why they adjourn my case."*

Two inmates awaiting trial, July 2007.

The assistance of counsel is a primary means of ensuring the right to a fair trial, including the right to be tried without delay. International standards call for the assignment of a lawyer whenever the interests of justice require it, if necessary free of charge.<sup>50</sup> This right is laid down in article 14(3)(d) of the ICCPR. The Nigerian Constitution also guarantees the right to legal representation and this is also laid down in the Legal Aid Act. Counsel should always be appointed in all stages of proceedings for people charged with crimes punishable by death if the accused does not already have the assistance of counsel of his or her choice.<sup>51</sup> Amnesty International considers the obligation to appoint counsel free of charge to extend to all cases in which the trial of a detained person has not been started and completed within a reasonable period of time.

In Nigeria, however, 91 Legal Aid lawyers simply cannot deal with the large number of suspects in the country who need assistance; so the right to legal counsel is, for most poor inmates, no more than an empty promise.<sup>52</sup> Consequently, only one in seven inmates awaiting trial and one in five convicted inmates in Nigeria have legal representation. Of those awaiting trial, 25 per cent have legal representation from the Legal Aid Council and other non-governmental bodies offering pro bono services.<sup>53</sup>

Having no lawyer leads almost automatically to years in prison awaiting trial. That is why suspects and their families do their utmost to collect money for legal representation. Unfortunately, in many cases they pay the lawyer in advance but when they need legal representation, the lawyer either does not turn up or asks for more money. Lawyers do take on pro bono cases but they explained that the government only pays them for three court sittings per case, which is not enough to conclude a case, since the courts adjourn cases many times. This is why many inmates say that they have had a lawyer in the past who stopped turning up.

Raphael (45) is awaiting trial on a robbery charge. He said: "If I go to court, they will say: 'Where is your lawyer?' I don't have relations so I can't afford a lawyer. If I see a judge, he will say I need counsel to stand for me, but I have nobody to help. That is why I have spent eight years, two months awaiting trial." Raphael was arrested in June 1999. After nine months

incarcerated in a State CID cell, he was brought before a Magistrate Court. According to him, there are no witnesses and there is no physical evidence in his case. "If an accused person does not have money, he will continue staying in the prison yard. I might reach the end of my life in this prison yard with no trial. So I'm crying that it's terrible in Nigeria."<sup>54</sup>

Several poor inmates gave accounts of officials at the Magistrate Court and High Courts who asked them to bring their lawyer. One described what happened: "They said I should bring a lawyer so the lawyer would [make a] plea for bail." If a suspect does not have legal assistance when the interests of justice require one, the judge or judicial authority should assign a lawyer.<sup>55</sup> This is clearly what should have happened in Raphael's case. His story typifies many cases of poor people who are arrested and, having no money to pay to the police, for bail or for a lawyer, are remanded to prison, where they seem to be forgotten.

## 2.5 Failure to guarantee the right to appeal

Everyone convicted of a criminal offence has, according to Article 14(5) of the ICCPR, Article 7(a) of the African Charter and The Constitution of the Federal Republic of Nigeria, the right to have the conviction and sentence reviewed by a higher tribunal.

One inmate said: "They did not tell me about appealing. They just sentenced me to two years, no fine." Many of the convicted inmates Amnesty International spoke to are very poor. Very few had a lawyer at the time of their trial; the judge did not appoint a counsel for them; they were not informed of their rights, including the right to appeal, and they did not have the support or means to file an appeal.

Amnesty International also spoke to some people who did have enough money to pay a lawyer, but did not file an appeal because they were afraid that an appeal would extend their stay in prison or because they did not believe it would reveal the truth.

Joseph (50) has been sentenced to three years in prison, starting from the day of his conviction, 16 July 2007. Prior to that, he had already spent two years in jail awaiting trial. Joseph did not file an appeal because, he said: "If I appeal, they will once more adjourn my case indefinitely. I risk staying even longer than these three years."<sup>56</sup>

## 2.6 The death penalty: denial of the right to life

*"We are dying in silence."*

**Inmate who has been awaiting trial for eight years, July 2007**

The right to life is fundamental and absolute. It is guaranteed in the Universal Declaration of Human Rights, the ICCPR, the Convention on the Rights of the Child, and the African Charter.<sup>57</sup> This right is guaranteed in Article 33 of the Nigerian Constitution. This same Article, however, confers on the state the power to kill a "person in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria". The Penal

Code (Northern States) Federal Provisions Act of 1959, the Criminal Code Act of 1961, which applies in southern Nigeria, and the Sharia penal codes all prescribe the death penalty for a range of criminal offences.

The death penalty is the ultimate cruel, inhuman or degrading punishment and violates the right to life. The international community has adopted several resolutions aimed at abolishing the death penalty: the Second Protocol to the ICCPR, and the resolution of the African Commission on Human and Peoples' Rights adopted at the 26th Ordinary Session in Kigali (Rwanda), which called upon all states that maintain the death penalty to "consider establishing a moratorium on executions". In December 2007 the UN General Assembly adopted a resolution calling for a global moratorium on executions.

After four years awaiting trial, Rebecca (30) was sentenced to death for murder and conspiracy on 8 February 2005. According to the verdict she murdered her partner, who was also her lecturer at university. Rebecca denies the charge and claims that she witnessed three masked men murdering him, saying: "I became a suspect because I could not identify the men." She filed an appeal in February 2005 but, at the time of her meeting with Amnesty International, she had not yet been to court. Her transfer from Port Harcourt prison to Kirikiri prison in 2005 might hinder her access to justice. She shares a very small cell with two other women. There are no toilet facilities. "I am tired. I don't know what will happen next. I fear spending so many years in prison."

For several years there has been a national debate in Nigeria on the death penalty. As a result of this debate, a National Study Group on the Death Penalty advised the government in 2004 to establish a moratorium on executions until the Nigerian justice system could guarantee fair trials and due process. In May 2007, the PCRAJ reiterated this conclusion in calling for "an official moratorium on executions until the Nigerian criminal justice system can ensure fundamental fairness and due process in capital cases."<sup>58</sup> This recommendation has not yet been implemented. On the contrary, in 2006 at least seven executions were carried out.<sup>59</sup>

Nigeria has approximately 784 inmates on death row, many of whom have been there for over 10 years, and some for over 25 years. Amnesty International met a very old and sick man (he claimed he was over 80) who had already spent more than 25 years awaiting execution. Some inmates, who were sentenced to death before 1999 by a Robbery and Firearms tribunal, claim that they never had the right of appeal.<sup>60</sup> Many death row prisoners or their lawyers at the time of their conviction, or relatives did file appeals, but in many cases that was years ago and their cases have not reached the courts. According to Peter Adoyi, a lawyer with LEDAP: "They have no lawyers to follow up on their cases. They actually need lawyers to go to court again to reopen their cases. This is a big problem because most of the death row inmates in Nigerian prisons are indigent and cannot afford the cost of paying for the services of a lawyer."<sup>61</sup>

Jafar (57) has spent 25 years in prison including the two years when he was awaiting trial. He was sentenced to death for armed robbery in 1984 and says: "I did file an appeal at the Federal High Court. But nothing happened." Although officially his case is ongoing, he never goes to court. Since he has no lawyer, there is no progress in his case. Jafar was a shoemaker. When he bought a motorbike that appeared to be stolen, he was taken to the police station as a witness. However, while attempting to arrest the suspected thief, the police allegedly



killed the man. From that moment on, Jafar became the murder suspect and within three years he was on death row. Jafar works in a workshop and goes to the mosque every day. He does not have many visitors: "My sisters used to visit me, I don't have other relatives."<sup>62</sup>

Anyone who has been sentenced to death has the right to seek a pardon or commutation of their sentence. Over the years, the Nigerian authorities have commuted the sentences of several inmates as part of the National Independence Day celebrations. The implementation of the amnesty processes is not very clear. According to prison directors, inmates are asked to put their name on a list if they think they are suitable for release. The directors select their own list from these names, and send them to the headquarters where the final decision is made. According to some inmates: "If you don't pay the prison officials, your name is not on the list." The authorities do not publicize the names of those who have been released or had their sentences commuted, making it hard to find out if they have in fact been released. Amnesty International is concerned that many are still on death row. During the visits to the death row cells, Amnesty International met many elderly inmates who should have been released according to the 17 May 2007 announcement. The organization recorded a number of statements of inmates who said that their sentences had not been commuted despite promises to do so. In Enugu prison, for example, there is a

**Woman prisoner under  
sentence of death**





**Amnesty International delegate interviewing a prisoner on death row**

*"So many people here, their brains get touched. Even me... It is because of what I am seeing."*  
Death row inmate

group of 10 inmates on death row who have been transferred from Port Harcourt prison. They claim that their sentence was commuted in October 2006; however they still remain on death row. The UN Committee against Torture has stated that the uncertainty of many people under sentence of death amounts to cruel and inhuman treatment.

Nigerian prisons are filled with thousands of inmates at risk of being sentenced to death. They are suspected of capital offences such as treason, armed robbery (three out of four inmates awaiting trial) and murder. In addition, the Sharia Courts in the North can impose the death sentence on those who commit adultery, apostasy, rebellion, sodomy, and rape. Amongst those are children, elderly and mentally ill people, and young mothers. In general, they cannot afford to pay a lawyer. Despite their right to an effective counsel, very few of them have legal representation.

Those at risk of being sentenced to death include some who may have mental illnesses. Juliana (38) has no lawyer. When Amnesty International met her, she was clearly confused. The Nigerian prison service acknowledged this and labelled her as a criminal lunatic. In October 2002 she was arrested on suspicion of murder and remanded to prison. Juliana does not remember much of the crime. She explained that she was confused and would walk around at night when she could not sleep. She remembered that she had been harassed: "People beat me and someone gave me a knife." In the fight that followed, a woman was killed. In the five years that Juliana has been in prison, she has not been to court.<sup>63</sup>

## 2.7 Sentences of amputation: cruel and inhuman punishment

*"I do not know when I can go home again."*

**Inmate sentenced to amputation of the right hand, waiting for three years for the sentence to be carried out, July 2007**

In July 2005, one year after being arrested, Abubakar (35) was sentenced by the Upper Sharia court to amputation of his right hand for stealing a motorcycle. Abubakar had no lawyer and could not afford an appeal. He has been in prison awaiting amputation since that time, and he told Amnesty International that the uncertainty was making him despair. "Why don't they

execute the sentence and let me go? Or give me a prison sentence and tell me how long I have to stay here. Now I don't know," he said.<sup>64</sup>

Amnesty International spoke with four inmates awaiting amputation, including Abubakar. Prison authorities reported that others had received sentences of amputation but had secured their release on appeal.

Amputation is a form of corporal punishment, and its application violates the prohibition against torture and inhuman or degrading punishment.<sup>65</sup> However, corporal punishment, including flogging, amputation and stoning to death, remains lawful in the northern states of Nigeria.

Perhaps in recognition of the conflict between state laws and Nigeria's obligations under customary international law and the human rights treaties to which it is a party, no sentences of amputation or stoning had been carried out in the prisons Amnesty International visited. Nevertheless, as Abubakar's case illustrates, an extended period of uncertainty causes anguish and is itself cruel treatment.

The Attorney General of Kano state did not agree he should take any action to improve this situation saying: "I cannot commute the sentence into a prison sentence. It is not my power."

Amnesty International calls on state and federal officials to review and commute all sentences of amputation or stoning to another punishment that takes account both of the crime and of the international prohibition on corporal punishment.

## 3. Conditions in Nigeria's prisons

*"We are congested inside.  
Too many people."*  
Inmate awaiting trial

Up to 100 inmates awaiting trial  
in one cell without any beds

*"The cell was like a warehouse. It had 120 inmates. I had a bed later on, but at first I slept on the floor. It looks like a classroom or a stall where bags of rice and other things were stored. There is no ventilation ... no fan, no windows, no light."*

An inmate awaiting trial, July 2007

Four out of every five Nigerian prisons were built before 1950. Many are in need of renovation: the infrastructure is old, many buildings can no longer be used, ceilings in others are about to collapse, the buildings in use as workshops are inadequate, and sanitary facilities have broken down. Every prison visited by Amnesty International has problems with its electricity supplies, and most with their water supplies as well. Several prisons do not have



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## Wudil prison: poor living conditions

### Kano State

Wudil prison, located in a rural area of Kano State, can accommodate 160 inmates. Although it contained fewer than 60 per cent of its official maximum capacity of inmates, it was difficult to imagine that it could hold more than its population on the day Amnesty International researchers visited in July 2007. Many of the 91 inmates slept on bare floors, with no mattresses or bedding; new beds went unused in the prison's storeroom because the prison had not received any mattresses for them. The ceiling in one cell had collapsed. One of the beds in another cell jutted into the toilet area.

Inmates spent their time outside their cells in a small, empty courtyard with no space for any exercise and apparently nothing to do. Prison staff showed Amnesty International researchers a dusty tailoring workshop that appeared to be disused, although they said that it was locked up only because the staff member who ran it was not in that day. Some inmates worked in the kitchen area, a roofless alcove where they prepared food in large pans over wood fires.

modern drainage systems, instead using open drains that create a serious health risk for inmates and staff alike. Most cells have only small windows for ventilation.

Death row inmates and prisoners awaiting trial face conditions that are even worse. Those on death row are held in cells that are tiny, dark and filthy, with almost no ventilation. They are allowed outside their cells during the day, along with other convicted inmates. The same is not true for most prisoners awaiting trial, who are generally held in much more overcrowded quarters.

Education and vocational training programmes exist in most prisons, but they often lack necessary materials and are limited to a handful of inmates each. Only convicted prisoners are eligible to take part in these opportunities.

In most prisons, the only activities in which prisoners awaiting trial may participate are religious services, and in some prisons the right to go to church or the mosque is restricted to a limited group. As a result, prisoners awaiting trial in Enugu, Kano, Kuje and Suleja prisons are only allowed out of their cells once a week and in some cases even less frequently than that.

Prisons register the date of entry and exit of each prisoner. The administration of inmates is very outdated: each day, prison directors register who has been locked up on a blackboard near the prison gate and report to the zonal offices who, in turn, report to the headquarters in Abuja. Few computers are used. Amnesty International observed that the prison headquarters were unable to provide data on the prison population. It is estimated that there are almost 45,000 inmates in Nigeria's 144 prisons and 98 additional specialized facilities.<sup>66</sup> Approximately 25,000 are awaiting trial, and some 784 are on death row. The total number of staff is almost 25,000.

All prison directors interviewed by Amnesty International acknowledged the UN Standard Minimum Rules for the Treatment of Prisoners, and all stated that the treatment of inmates is based on these rules. Nevertheless, Amnesty International's delegates found that most of these rules, including those relating to welfare of prison staff, are not followed in practice.

### 3.1 Overcrowding

The problems within Nigeria's judicial system contribute to the problems within the prisons. Overcrowding is a serious problem. The most overcrowded prison visited by Amnesty International is Ikoyi prison which, at the time of the visit, incarcerated almost 250 per cent of its official capacity of inmates. The least overcrowded prison visited is Kirikiri Maximum Security Prison, which incarcerated almost 40 per cent of its capacity.

Overcrowding is caused mainly by the high number of inmates awaiting trial: in Ikoyi prison for example, 94 per cent of all prisoners are awaiting trial and in Kuje prison the number is 88 per cent.<sup>67</sup> In addition, many prisoners remain in prison because they cannot meet the bail conditions set by the courts or because their bail application has not been handled. One said: "I have been here five years. I'm going to court, but it's always adjourned. I will not see my judge when I go." Another inmate, who cannot afford to pay the bail, said: "The bail is too high. The less privileged stay in prison."<sup>68</sup>

One such inmate is Grace (28). She had a fight with her neighbour which resulted in the neighbour lodging a complaint and Grace, a mother of two, being arrested in February 2007. When the police asked for NGN3,000 bail, she paid it, even though police bail is supposed to be free. The court then set her bail of NGN5,000. After paying the police, she could not afford the court bail so she was remanded to prison instead. When Amnesty International interviewed her, she had been waiting five months for her trial. Grace has no lawyer, and nor has the Legal Aid Council offered her legal representation. She worries about her children, saying: "They are one and three years – a friend is taking care of them."<sup>69</sup>

#### **Ikoyi prison: extremely overcrowded**

##### **Lagos State**

Twenty to 30 new inmates arrive at Ikoyi prison every day. The prison is extremely overcrowded: it was built for 800 inmates but contained 1,933 men at the time of Amnesty International's visit, of whom 1,820 (94 per cent) were awaiting trial.

"We don't have enough space, that's my concern here," said the officer in charge. "The buildings are dilapidated. They need to be reconstructed." Most cells are large dormitories meant for 50 inmates but where up to 100 men share a single toilet. Only half of the inmates sleep in a bed. Disease is widespread; cells are unclean and offer little ventilation. Convicted prisoners and a few other inmates are allowed outside their cells to exercise or for outdoor recreation but most inmates only go outside once a week. There is no running water inside the cells, so those who are locked up are dependent for water on those who are able to leave the cells.

Ikoyi prison offers its inmates several daytime programmes: there are workshops in carpentry, tailoring, electronics and shoemaking. The school operates from an old building without a roof and offers an education programme up to tertiary level. However only 6 per cent of the inmates were registered for these activities: fewer than 50 were employed in a workshop and 75 attended school. Inmates awaiting trial are allowed neither to work nor to go to school.



## Goron Dutse prison: overcrowded but under capacity

### Kano State

Goron Dutse prison held 520 inmates at the time of Amnesty International's visit, 80 inmates fewer than its official capacity of 600. But four cell blocks built in 2007 had not yet been put into service because the prison has not received beds and mattresses. In addition, Goron Dutse houses convicted prisoners separately from those awaiting trial, as required by international and Nigerian law, and the number of prisoners awaiting trial greatly exceeds the capacity of the cell blocks assigned to them. In one cell holding 67 inmates awaiting trial, only half had a bed; the rest slept on the floor. In contrast, Amnesty International researchers saw vacant beds in several of the smaller cells where convicted inmates were held.

Large numbers of convicted inmates are serving long prison terms in lieu of fines.<sup>70</sup> For example, Mary (37) was arrested on 8 November 2006 and confessed in court that she stole NGN30,000 from a friend to pay the school fees of her four children. She was sentenced on the same day to five years in prison or a fine of NGN35,000. She said: "I did not have money for a lawyer, or for an appeal. I have no money to pay the fine." Her mother-in-law is taking care of her children while she serves her sentence.<sup>71</sup>

Peter (30) was sentenced to one year imprisonment in March 2007 plus compensation of NGN40,000 for the loss of two cows that belonged to a third party. He was given the option of paying a fine of NGN10,000. Even after selling his farm he could only afford to pay the compensation but not the fine, so he has to spend one year in prison. Peter claimed that when the two cows died, he was accused of selling them. He told Amnesty International that, after being tortured, he confessed that he had sold the cows. Peter had no lawyer and did not file an appeal.<sup>72</sup>

Overcrowding and substandard living conditions increase the likelihood of violence among inmates and can lead to riots. In Kuje prison, in fact, a riot on 28 March 2007 resulted in the death of two inmates and left many others injured. Inmates told Amnesty International that the riot was provoked by shortages of food and water. "Before they gave the water, it was late in the evening. They put sand in the rice and gave it us to eat," a prisoner said. Prison authorities denied this account, saying, "The inmates said there was no water, but that was not the reason. The problem is the judiciary," referring to the slow pace of court cases and the resulting increase in the prison population.

Similar circumstances led to at least two other riots in 2007, one in Kano Central prison on 31 August 2007 and the other in Ibadan's Agodi Federal Prison on 11 September 2007, resulting in the death of almost 20 inmates.

## 3.2 Basic needs: beds, food, sanitation

According to the UN Standard Minimum Rules for the Treatment of Prisoners (SMR), Rule 10:

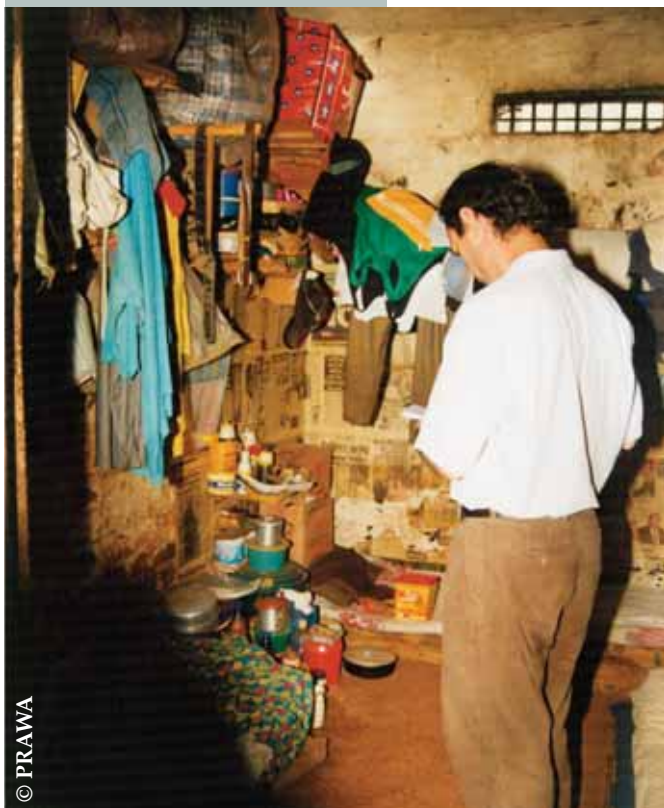
*"All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation."*

As a result of rampant overcrowding, inmates routinely share beds or sleep on the floor. According to one inmate: "Sometimes when you sleep you wake up with your back paining you." Mattresses and bedding are uncommon. In every prison visited, the comparatively fortunate inmates showed Amnesty International researchers dirty, tattered foam mattresses. Others slept on mats. Many had nothing at all.

One guard gave this explanation for the lack of bedding: "The supplies come from Abuja. They only supply the number of the prison capacity." Consequently, in prisons that incarcerate double their official capacity, half of the inmates do not have beds. In Enugu prison, the cells for inmates awaiting trial have no beds at all; as a result, up to 100 men and children per cell were sleeping on the bare floor.

**Amnesty International delegate inspecting a death row cell in which five men are held (left).**

**Leftover beans after breakfast in prison: "Even a dog cannot eat the food" (right).**



The SMR require that all inmates "shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness."<sup>73</sup>

The Prison Service Headquarters provides every prison with a daily budget for each inmate, to cover the cost of food. Official caterers, with the help of inmates, provide the food, and prisoners receive three meals a day. At the time of the Amnesty International visit, the prisons received NGN150 a day per inmate for food.<sup>74</sup> In most prisons, the kitchens with gas cookers are no longer in use, so food is cooked in large pots on wood fires, sometimes in the open air or under a shelter.<sup>75</sup> Portions are small and the quality of the food is, according to the inmates, of a very poor standard: "It is not good for the health. Even the rice is not good – it is stone rice." "The food we eat is not the food that a human being will eat." "Even a dog cannot eat the food." Accordingly, some inmates ask their families to bring in food. The prison authorities generally permit this so long as the inmate pays for it.

The SMR states that "every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. Drinking water shall be available to every prisoner whenever he needs it."<sup>76</sup>

## Suleja prison: lack of running water leads to health risks

Federal Capital Territory, Abuja

The flowers in the courtyard cannot hide the fact that life in Suleja prison is very harsh, despite the efforts of its director to improve conditions. This prison has a capacity of 250 inmates but there is not a single workshop (the unused area outside the prison walls cannot be described as a workshop) and there is no education. On the contrary, Suleja contains almost double its official capacity of inmates and has so few staff that it does not allow prisoners out of their cells during the day. "Sometimes we stay in our cell for weeks," said one prisoner. Staff explained that they only allowed prisoners out of their cells "on days we have enough staff". "Most days, when staff are accompanying inmates to court, they [the inmates] stay inside." With over 250 inmates awaiting trial, the prison staff are often at court.

None of the cells for males has running water; drinking water is stored in large plastic barrels in each cell, with reserves of drinking water in closed containers and in an open air basin in the prison yard. Because the water system is not working, the inmates use buckets as toilets. Because of improper drainage, standing water creates a breeding ground for mosquitoes. In early June 2007 the cesspool just behind the cell blocks collapsed, creating a possibility of further collapses as well as a serious health risk.

As in most prisons, disease is widespread. According to the staff, inmates suffer from skin infections such as scabies and fungal infections, fever, malaria and respiratory tract infections. A member of the medical staff explained: "The problem is how to prevent recurrent infections in this environment. It is difficult for the inmates to maintain hygiene because of constraints here – shortage of soap, lack of access to water, lack of towels."

The sanitary facilities in all prisons are in urgent need of renovation because few cells have running water, and toilets are broken and usually blocked. In some cells up to 100 inmates share a single toilet, which is often little more than a hole in the ground. In other cells buckets are used as toilets. The overcrowding of the cells combined with the inadequate sanitary facilities makes it virtually impossible to keep the cells clean or to enable the prisoners to maintain their dignity. An inmate said: "Everywhere, all this place, it's smelling. The toilet is full. For water, we used to get one cup. We can't get water all the time. Even at times you see the water is very dirty."

The Standard Minimum Rules require that sanitary installations be "adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner" and provide that "[a]dequate bathing and shower installations shall be provided."<sup>77</sup> Conditions in nearly all prisons visited fell far short of those standards.

### 3.3 Medical services

Many Nigerian prisons have a small clinic, and most of the bigger prisons have a hospital.<sup>78</sup> Most hospitals do not have mosquito nets to protect the ill inmates from malaria. Inmates suffering from TB are, where possible, quarantined in special cells, but the smaller prisons do not have such facilities. The prison authorities transfer seriously ill inmates to prisons with hospitals. Amnesty International interviewed many inmates who were ill. In most prisons they are able to visit the clinic but often they cannot afford to pay for the medicines they need. In some prisons inmates are only allowed to visit the clinic after paying a bribe to the warden; those who cannot afford the bribe remain in their cells. This cruel measure has a discriminating effect as it singles out the poor inmates who cannot afford the bribes.

Amnesty International interviewed ill inmates in all the prisons its delegates visited. They were suffering from skin problems, malaria, mental illness, diabetes, infections, asthma or lice. Some have HIV/AIDS, TB or wounds.<sup>79</sup> Femi (31) for example, an inmate who has been awaiting trial for two years, has had TB while he has been in prison, and the doctor has advised him to eat more healthy food such as fruit and vegetables. The prison cannot provide this diet.<sup>80</sup>

As a result of the appalling sanitary conditions in the cells, it is very easy for inmates to infect each other. The prison authorities simply cannot guarantee cleanliness inside the cells. Most Nigerian prisons do not uphold the right to health, even though bigger prisons do have medical facilities.

Article 25(1) of the Universal Declaration of Human Rights guarantees the right to a standard of living adequate for the health.<sup>81</sup> The right to health is also guaranteed in Article 12 of the ICESCR and Article 16(1) of the African Charter.<sup>82</sup>

## Kuje prison: degrading treatment despite exemplary facilities

Federal Capital Territory, Abuja

Kuje prison, which is fairly new, well maintained and well supplied, could have been an example of good practice for other Nigerian prisons. There are workshops, a school, a library, a church and a mosque. In addition, inmates can work in the garden. In comparison to other prisons in Nigeria, Kuje has excellent hospital facilities with 25 staff, including three doctors and 10 nurses, 20 beds, medicines and several wheelchairs. In total the prison has 213 staff members.

When this prison was first opened in 1989, it had a capacity of 80 inmates. Later, the capacity was increased to 320. At the time of the Amnesty International visit, Kuje housed over 500 prisoners, many of whom had been transferred from detention facilities all over the country.

The conditions in the two dormitories for prisoners awaiting trial are particularly degrading. Inmates spend most of the time locked up in extremely overcrowded and filthy cells. At the time of the Amnesty International visit, one cell housed 219 men who shared 50 bunk beds and just two toilets. Inmates slept on the floor and underneath the beds. Amnesty International researchers spoke with children as young as 11 who were locked up with adults. Inmates accused of murder and other violent crimes were held together with those charged with less serious offences.

Despite the relatively good hospital facilities, disease is widespread, perhaps because sick inmates in the cells for prisoners awaiting trial cannot afford to pay the money that the guards demand to take them to the hospital. "There are no drugs. Insects are eating our body, all over our body," said one inmate. In fact, the hospital was deserted and seemed unused; there was not a single patient in any of the 20 beds. (Every other facility visited by Amnesty International had inmates in its hospital or sick bay.)

## 3.4 Classification of prisoners

All the prisons visited by Amnesty International house men and women separately; in addition, convicted inmates and those awaiting trial are often in different cells. In the female wings, however, these categories are frequently mixed up. No prison separated inmates according to the nature of the offence. Only one prison had a cell for convicted inmates who were first time offenders. In nearly all urban prisons Amnesty International saw minors in cells with adults. Almost every prison visited locked up people with mental illnesses; in some cases they had committed no crime, but their families had brought them to the prison.<sup>83</sup> This clearly does not comply with Nigeria's national and international obligations.

Some prisons have a special category of so-called VIP inmates – usually politicians and wealthy prisoners, but one that also includes detained police officers separated from the general prison population for their own security. Their cells are not overcrowded, and they receive special treatment and privileges.

### 3.5 Education and rehabilitation

Some facilities visited by Amnesty International offered schooling or work opportunities to a limited number of convicted prisoners, but even these centres lacked sufficient books, educational supplies and vocational training materials. Many workshops and libraries were locked and seemed not to be in use at all.<sup>84</sup> Inmates complained that it was not possible to work towards rehabilitation, saying, "I have spent here eight years. To me, to be in my place is a waste. I have not learned anything. I never achieved anything," one said. Another put it more simply, telling Amnesty International, "We stay idle."

Prison directors recognized the desirability of education and rehabilitation but told Amnesty International that they could not achieve those objectives. As one forthrightly admitted, "We are doing little and nothing here. We don't have the materials."

Rule 66 of the SMR provides for programmes for rehabilitating convicted offenders and preparing them for reintegration into society, including "education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character". Rules 71-76 concern work by convicted prisoners and remuneration for work. Rules 77-78 provide for education and for recreational and cultural activities.

### 3.6 Transport

Once a person is remanded to prison, his or her welfare becomes the responsibility of the prison. The prison is also responsible for transporting inmates to court. Some years ago, most prisons could not provide transport or guards and thus inmates would not be taken to court. This has improved; now the problem is more often that the court is not sitting, or that the witnesses or prosecutor do not attend. However, prisons continue to have serious problems of resources. If the prison is understaffed because of annual leave or illness, inmates cannot

#### Sumaila Satellite prison: no money for a vehicle

##### Kano State

Sumaila Satellite prison, built in 1969, has a capacity of 40 inmates. This small prison consists of two cells for male inmates and one small cell for female inmates. There is no running water so prisoners fetch water from the well in the village. As the prison has no vehicle, the staff hire a motorbike to take inmates to court.

At the time of Amnesty International's visit, 16 men were incarcerated there, sharing one cell with a single toilet. The cell contains few facilities: the toilet is barely more than a hole in the ground, and there are no beds. Inmates sleep on mats on the floor. The second cell is not in use as it is completely run down. During the day, prisoners are allowed to spend their time in the very small courtyard, which has very little shade. Sumaila prison has no facilities for rehabilitation. The 12 prison staff "provide indoor games, like cards".

The staff do have facilities and live in newly built barracks. These were financed by the local government of Sumaila, and not the Nigeria Prison Service.





be taken to court. In addition, many prisons lack vehicles because they have broken down and there is no money to repair them; or the prisons may not have enough money to buy petrol because headquarters has not paid them on time. The Amnesty International delegates spoke to inmates and judges, both of whom claimed that prison staff asked them for money to buy petrol. The situation is worst in the small and rural prisons. Sumaila Satellite prison in Kano State, for example, has no vehicles at all, and prison staff usually rent a car or bike to take inmates to court.

**Blackboard with inmate registration in Kirikiri women's prison**

### 3.7 Punishments that amount to torture or ill-treatment

*"We are beaten at the slightest provocation."*

Kano prison inmate.

All prisons have punishment measures in place. Some use a punishment cell where they lock up inmates for extended periods of time without allowing them out. Amnesty International saw one inmate who had been incarcerated in a dark, solitary cell for three months after an attempt to escape.

Another inmate was shackled inside the cell, according to the prison director "to show other prisoners, as deterrence". In another prison, inmates are punished by "doing frog jumps" or fetching water from the well. According to both prison staff and inmates, women are not beaten. Amnesty International witnessed how one prison punished a female inmate: she was made to kneel in the burning sun with her hands above her head.

Beating is a clear violation of the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment. Other physical punishments can also violate this prohibition. Prolonged solitary confinement or reduced sensory stimulation can amount to cruel, inhuman or degrading treatment or punishment. Amnesty International believes that no prisoner should be confined long-term in conditions of isolation and reduced sensory stimulation.

### 3.8 Contact with the outside world

Many inmates reported that their poverty prevented them from having contact with their family. Without the money to bribe a guard or welfare officer, they could not inform their family of their imprisonment. "My family probably thinks I am dead," said one inmate. This has severe consequences because, without help from their families, they are unable to obtain money for a lawyer. "If no one visits you, you have problems," said another inmate. Some inmates who did see their families said that their visitors have to pay NGN500 for each visit.

#### Kano Central prison: too few staff, harsh treatment

##### Kano State

At the time of Amnesty International's visit, Kano Central prison housed almost double the population it was designed to accommodate. There were 1,268 inmates of whom 38 were women. Four out of five inmates are awaiting trial – several of them for up to eight years. They are confined all day long, in long, narrow dormitories built many years ago. The stuffy, dark cells, which are supposed to hold 60 people, are packed with up to 130 inmates. Consequently nearly half of the inmates share a bed or have no bed at all. There are too few staff to control all the inmates, so only those who work are allowed outside their cell along with some prisoners who have been selected to participate in religious activities.

The extreme overcrowding of most cells has been exacerbated by the demolition of two large dormitories to make space for new cells. The contractors have started building the new cells but their completion is dependent on when Abuja – the headquarters – sends funds to pay for the work.

Prisoners complained about the harsh treatment by the guards, saying: "Warders beat, humiliate and abuse the inmates."

Underneath a bed in one of the two cells in the female wing, Amnesty International saw a mentally and physically ill woman chained to the leg of a bed. She had large bumps on her arms. There are no facilities for inmates with mental illnesses, beyond occasional clinic visits from a psychiatrist.



**Prisoners lined up in front of the prison wall**

Some inmates' only contact with the outside world is when they go to court. Amnesty International's research revealed that, particularly in Kuje prison, inmates have little contact with the outside world. Because they have been transferred to this prison from all over the country, inmates are not able to contact their families. Most are very poor and they do not have a lawyer or money to bribe the guards.

Rule 37 of the Standard Minimum Rules states: "Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits." Principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment has a similar provision for visits and correspondence with family members and also states that prisoners "shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations".

### 3.9 The pressures on prison staff

Prison staff operate in difficult circumstances, working long hours for low wages that are often paid late. "The salary is far from sufficient," one director said. Another director told Amnesty International, "Staff have to borrow money from the bank, or beg."

The stressful nature of the job is evident from the ratio of prisoners to security staff. The total staff to prisoner ratio varied from 1 to 1.3 in Kirikiri women's prison to 1 to 13.5 in Ikoyi prison. However, the ratio of inmates to security staff was much higher. In Ikoyi prison, for example, there were 66 inmates to each member of security staff on the morning shift, 138 in the afternoon and 175 on the evening shift.

Insufficient staffing creates obvious security risks, and efforts to manage those risks can result in inhuman detention practices. Staff in many prisons told Amnesty International, for instance, that they handled overcrowding by severely limiting the time prisoners spent out of their cells. Those who were awaiting trial were worst off, let out of their cells at intervals ranging from every other day to once a week or less.

Another problematic method of coping with staff shortages is to rely on the inmates to govern themselves. An inmate in Suleja prison described the elaborate structure that prisoners had developed in that institution, apparently at the behest of prison officials. "We're appointed by the authorities to be assisting one another, to keep the peace," he said. Referring to particular inmates with disciplinary functions, he continued, "The IG [Inspector General] is the head of police. We also have policemen. The CJ [Chief Judge] is the judge. When we catch somebody in a criminal act, then we prosecute him. The CJ passes the judgement. The authorities are aware that this happens." Other prisoners interviewed by Amnesty International describe the punishments meted out by these inmate-run structures as including corporal punishment, close confinement and diet restrictions – punishments that do not comply with international standards.

## Kirikiri Maximum Security Prison: relatively good conditions

### Lagos State

Even though Kirikiri Maximum Security Prison is run down and urgently in need of renovation, the situation there is better than in most other prisons. Kirikiri is a big prison which has a large yard for exercise and other activities, with cell blocks around it, plus a mosque, a church and a hospital. There is a constant supply of water, piped through taps, in the yard. During the day, all inmates are allowed outside their cells, with the exception of those who are in punishment cells. Convicted prisoners have a number of work opportunities, such as painting, carpeting and shoemaking, and there is a school.

At the time of Amnesty International's visit, Kirikiri housed 411 inmates. Inmates awaiting trial share cells with approximately 25 prisoners. Kirikiri also accommodates more than 80 inmates who have been sentenced to death, and these prisoners share small cells with two others. Those who have spent many years on death row in Kirikiri welcome the improved regime, saying: "In 1994 they opened the doors; now all cells are open all days. We share a cell with two or three persons – 10 years ago with at least 8 people."

The downside is that this relatively well ordered prison has a capacity of 1,056 inmates – and at time of visit it housed fewer than 40 per cent of this number. The fact that this prison operates at less than half of its full capacity probably accounts for the difference between a prison that meets international standards and the reality in most of Nigeria's prisons.

Unrealistic staff-to-inmate ratios, poor pay, and unacceptable delays in receiving wages can also lead to other abuses. "When I am angry about my own situation, I tend to be aggressive to the inmates," one prison director said. Staff who are not paid adequately or on time are also more likely to engage in petty extortion, and indeed Amnesty International researchers repeatedly heard accounts of such acts. For example, one inmate in Ikoyi explained: "If you don't have money, if you come to prison you will suffer. The way they are treating the inmates is not okay. They collect money from you. It is not right." Another inmate simply said: "Everything is money – nothing is free."

The Nigerian government is responsible for the welfare of all prison staff. The role of the Prison Service headquarters in Abuja is to ensure that all prisons have sufficient staff, to pay their salaries and provide housing for them near the prison. Several directors commented to Amnesty International, that the Prison Service should offer prison staff more training opportunities to improve their career prospects as well as their knowledge of prison issues.

## 4. Women, children and the mentally ill

*"Here in prison, there are no facilities for babies. She sleeps in my bed. There is nothing, no baby food, no clothes, no drugs."*

**Woman prisoner, Kirikiri women's prison**



**A woman prisoner with her baby daughter**

### 4.1 Women and babies in prison

Nigeria has only one women's prison, though many of the prisons contain female wings consisting of a small inside area with one or two cells, a kitchen and, in some cases, a workshop or school. None of them provide sufficient space or activities for the inmates. All the prisons Amnesty International visited had exclusively female officers on duty in the women's wings, though none of them had made special arrangements for mothers, despite the SMR rule that a prison should have accommodation for pre-and post-natal care and treatment.<sup>85</sup> Babies can stay with their mothers until they are 18 months old but prisons do not have the facilities to provide medical services such as immunizations for babies.

President Umaru Musa Yar'Adua has reportedly ordered the release of children born in prison. According to the Attorney General of the Federal Republic, Michael Aondoakaa, there are over 300 children who were born in Nigerian prisons. He questioned how those women became pregnant in prisons.<sup>86</sup>

In general, female inmates are amongst the most underprivileged members of prison society.<sup>87</sup>

### 4.2 The detention of children with adults

*"We also have many who are underage. There are many. I can't count them."*

**Inmate awaiting trial, July 2007**

A 15-year-old boy has been awaiting trial in Kuje prison for over two years. He arrived in Kuje, aged 13, on 27 May 2005. During the following two years he went to court five times. This is how he described it: "The first time, they said my charge is attempt to steal. The chief judge asked whether I am guilty. I said no. I said I am not guilty. The second time, there were no witnesses, no complainant, they just called my case and that was all. I don't remember the third time. The fourth time, the court did not sit. The fifth time, the judge asked again



## Kirikiri women's prison: no budget for babies

### Lagos State

Kirikiri women's prison is the only women's detention centre in Nigeria. The prison was built in 1963 and has the capacity to accommodate 105 inmates. The current state of the buildings is deplorable: some ceilings have collapsed while others are about to. The only new building within the prison walls has been donated by a private organization. This houses the school, computer room and library. Unfortunately the inmates can make very little use of these facilities because there are no books in the library and the electricity supply is too unstable for the computers.

At the time of Amnesty International's visit, 131 women and six babies were incarcerated in the prison. Five women have been sentenced to death, and they share single cells without any sanitary facilities.

In a small room that was used as a nursery as well as a sick bay, a young mother with a newborn baby told Amnesty International: "It is hard. But the wardens gave me baby clothes and baby food." Officially, the prison does not have a budget to provide care for the babies. "Abuja does not provide us with money," said one guard. However, guards do bring clothes and baby food for them.

The prison staff are concerned about the future of the women: "There is no aftercare. We try, but ideally there would be an aftercare home for women. Especially [because] women have difficulties after their release due to the stigma."

whether I was guilty. I still said no. They adjourned the case." He shares a cell with at least 175 adults, all awaiting trial for various offences.<sup>88</sup>

When Amnesty International asked prison directors how they treat children in prison, most said that they did not have children, because they transfer them to one of the country's four young offenders' institutions. In some cases, when Amnesty International could clearly see that children were locked up, the prison authorities claimed that they were not children or that their incarceration was an exception or, that the minors were there because of the seriousness of the offence. One director explained that he did have some children and that his policy was to lock them up with adults in the cell for first offenders.

Mary (30) was arrested when she was 17. The police suspected her younger brother, then aged 14, of killing two people. Her mother and aunt were initially arrested as well, but they were later released. Mary, her brother and their 15-year-old cousin were sentenced to death in November 2002 after awaiting trial for eight years. Mary said: "After the conviction we put in an appeal for a wrong judgement." The appeal is ongoing.<sup>89</sup>

Jamiu (26) was 16 when he was arrested for culpable homicide in February 1997. "They asked me did you do it. I said no. Then the police threatened me so I confessed." According to Jamiu the death was an accident: "I played roughly with another boy. This boy had to go to the hospital and he died the following day." Jamiu was remanded to prison and locked up in a cell for inmates awaiting trial. He did not go to court during the first four years; this might have been because of the death of the judge of his court. In 2004, after awaiting trial for seven years, Jamiu was sentenced to 15 years imprisonment. He did have a lawyer provided by the Legal Aid Council and he did not file an appeal.<sup>90</sup>

## Children's right to a fair trial

Children who are in conflict with the law are entitled to the same fair trial guarantees and rights as adults. In addition, because of their age they should have additional protection, which should be based on their best interests and well-being, as well as on the desirability of rehabilitation. Some considerations that courts and prison authorities should take into account are:<sup>91</sup>

- Cases involving juveniles should be given the highest priority and handled as fast as possible;
- Arrest, detention or imprisonment of children should only be used as a measure of last resort, in conformity with the law and for the shortest appropriate time;
- The privacy of every child should be protected, and measures taken to avoid their being stigmatized; their trials and judgements, for example, should be closed to the public and the press;
- Pre-trial detention of juveniles should be avoided where possible;
- Children in detention should be segregated from adults, except where this would not be in the best interests of the child;
- Any penalty must be proportional to the gravity of the offence and the circumstances of the young person;
- Children in prison should be allowed to maintain contact with their families and they also have a right to education.

In many of the prisons visited by Amnesty International, minors shared large dormitories with adults. Most were around 16 or 17 years old; some were even younger.<sup>92</sup> In Kuje prison the Amnesty International delegates spoke with children as young as 11 and 12. Reports suggest that these children were tortured while in police custody. In Enugu prison, Amnesty International interviewed an inmate awaiting trial who was 14 when remanded to prison on suspicion of a capital offence.<sup>93</sup> This does not conform to Articles 13 and 26 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, which state that minors should be kept separately from adults.

International law defines a child as anyone under the age of 18.<sup>94</sup> According to the Nigerian Criminal Procedure Act, a child is "any person who has not attained the age of 14 years" and a juvenile offender is defined as "an offender who has not attained the age of 17 years."<sup>95</sup> If the alleged crime is a capital offence, and the suspect cannot prove they were under the penal age of 14 at the time it was committed, it is common practice to assume that the person is an adult.

Miriam (21) and her sister Anita (17) are suspected of murdering Miriam's brother-in-law. The young women claim that, in January 2003, this boy hanged himself and died. When they reported the matter to the police, they themselves became suspects. The police advised them to say they were 18 years old, as "that would be better once our case is in court". After serious ill-treatment by the police, one of the sisters was hospitalized. Later, a court remanded both of them to prison. They have been awaiting trial now for over four years. They do go to court, but each time their case is adjourned, reportedly because the medical

autopsy file has not yet been delivered to court. According to the sisters, there is no evidence to prove their involvement in the boy's death.<sup>96</sup>

## 4.3 Warehousing the mentally ill

In almost every prison Amnesty International met several inmates who had mental illnesses – they had either become ill during their stay in prison or were already having mental health problems at the time of their arrest. The Prison Audit counted 341 mentally ill inmates. In some cases they had committed no crime; their families had brought them to the prison because they could not or would not care for them.

One of these mentally ill inmates interviewed by Amnesty International is Yusuf (55). He did not remember exactly when he was arrested – it was in 1992. He and two other men were accused of culpable homicide. One died in prison. Yusuf denied that he had been involved in the murder. After awaiting trial for 15 years, it seems as if Yusuf's case has been forgotten. The last time he appeared in court was several years ago. His stay in prison has undermined his mental health. Yusuf complained: "I have spiritual problems that affect my head. They keep me awake at night." Prison staff confirmed that Yusuf has a mental illness.<sup>97</sup>

The Nigerian Prison Act states that if an inmate complains about illness, the prison officer is obliged to report the complaint and ensure that the inmate is examined. According to

### Enugu prison: one out of eight inmates mentally ill

#### Enugu State

Enugu prison contains a remarkably high number of mentally ill inmates. At the time of Amnesty International's visit, the prison housed 861 inmates, of whom 119 had mental illnesses, including 10 women. Over a third of these inmates, those known as "civil lunatics", had committed no crime but had been brought to the prison by their families or friends. Consequently, they do not go to court and they remain in prison indefinitely. The men are incarcerated in a special area known as "the asylum", which consists of two large dormitories and several smaller cells. Some of the inmates have been in prison for up to eight years. "Civil lunatics" are held together with "criminal lunatics", the category used for inmates who are convicted or awaiting trial and who are thought to suffer from mental illness. Medical treatment for either category of inmate is minimal, since patients can only be treated if their families can afford to pay for medication.

Women with mental illnesses are even worse off than their male counterparts. These women are held in Enugu Prison's female wing, a facility that provides few activities for the women in detention other than a poorly resourced sewing workshop. The female wing has no specialized services for prisoners with mental illnesses. At the time of Amnesty International's visit, one elderly woman was classified as a "civil lunatic" and housed in a separate cell with no bed, mattress or bedding. She sat naked on the dirt floor in the middle of her cell rocking back and forth, her arms clenched around her breasts.

## Federal Neuropsychiatric Hospital

Enugu, Enugu State

The Federal Neuropsychiatric Hospital in Enugu, one of the eight hospitals in Nigeria for people with mental illnesses, had 125 patients when Amnesty International visited.

The psychiatric hospital works together with the judiciary, the NGO PRAWA, and the prison to remove the "civil lunatics" from prison. In May 2007, 33 "civil lunatics" were transferred to the hospital. One of these patients is a 65-year-old woman who spent 18 years in prison, over which period she became seriously ill. When Amnesty International met her, she was unconscious.

Dr Ahamefule Agomoh, the director of the hospital, said: "The asylum in the prison is meant for clear forensic cases, like violent people who are suspected of murder, but this is being abused. People bring their mentally ill family members to the asylum. Once they are put in there, it removes them from paying for their care."

Dr Ahamefule Agomoh is concerned: "I don't know how long we can last. We don't get any extra resources for hospitalizing these patients from the prison." The patients are glad they are well looked after now, a female patient said: "The asylum was a terrible place. But my husband insisted, he wanted me to go there and drink drugs. Here I can go out."

Section 8 of the Prison Act, seriously ill inmates should be removed to a hospital. In addition, the Prison Act requires that, where a prisoner seems to have a mental illness they should be examined by qualified medical practitioners and if necessary be removed to another prison or hospital. If it transpires that an inmate is mentally ill, they should be removed to a psychiatric hospital. If the inmate is sentenced to death, the execution of the sentence should be delayed and the inmate removed to a hospital.<sup>98</sup>

Another mentally ill inmate Amnesty International spoke with is Helen, a mother of four. Her husband died when she was pregnant with her fifth child. As Helen had mental health problems, her husband's family took care of her newborn baby. She does not remember what happened to the baby, but in July 2006 Helen was arrested. The baby had died and she was suspected of murder. Although Helen is mentally ill, she is still being held in prison and does not receive proper treatment as "there is nobody to buy drugs for me."<sup>99</sup>

In Kano Central there is an inmate who allegedly has a mental illness; he is held in the isolation cell, which has no daylight, for his own protection. When he was detained in the cell for prisoners awaiting trial, the inmates suspected him of witchcraft and attacked him.

## 5. Conclusion

Prisoners in Nigeria are systematically denied a range of human rights. Stakeholders throughout the Nigerian criminal justice system are culpable for maintaining this situation.

The police do not bring suspects promptly before a judge or judicial officer; despite the Nigerian Constitution's guarantee that this will occur within 24 hours, it usually takes weeks – and in some cases months – before suspects are brought before a judge. Suspects are usually ill-treated in police custody; many are denied their right to contact their families or a lawyer, and in some police stations, suspects do not receive any food. The police routinely use torture to extract confessions and, despite this being widely acknowledged by the police themselves, little is done to stop it. In addition, the police do not respect the principle of the presumption of innocence.

The judiciary fails to ensure that all inmates are tried within reasonable time; indeed, most inmates wait years for a trial. When inmates are convicted, most courts do not inform them of their right to appeal. Nor does the judiciary guarantee that all suspects are offered legal representation. Few of the courts take the necessary steps to end the use of evidence elicited as a result of torture. In breach of national and international law, the judiciary does not guarantee fair trial standards even in the case of minors.

The prisons cannot ensure that conditions in all their facilities are adequate for the health and well-being of the prisoners. Severe overcrowding and a lack of funds have created a deplorable situation in Nigeria's prisons.

The Federal Government has failed to implement the recommendations of many study groups and presidential committees over recent years. Few of the promises made by the Nigerian government have been carried out and this has led to the current problems being experienced in the country's prisons.

The opening of prisons to non-governmental organizations has had a positive effect: NGOs bring food, educational materials and lawyers into the prisons. They organize religious activities, offer counselling and teach inmates. However, NGOs are not primarily responsible for the welfare of the inmates. It is time the Nigerian government faces up to its responsibilities for those in its prisons.

## Recommendations

### **The Federal Government should:**

- » Make all necessary legal and administrative provisions to ensure all suspects are charged with a recognizable criminal offence or released;
- » Systematically review the files of all inmates awaiting trial in Nigerian prisons and detention centres, and ensure that their right to a fair trial within reasonable time is guaranteed;
- » Improve access to legal aid, which should include providing resources to the Legal Aid Council in order to appoint more lawyers;
- » Take all necessary steps to ensure that the police do not commit acts of torture or inflict other cruel, inhuman or degrading treatment on suspects. All cases of torture should be independently and impartially investigated and perpetrators brought to justice. Every law enforcement officer under investigation should be suspended from active duty pending the outcome of the investigations;
- » Abolish the death penalty for all offences and, pending abolition, declare a moratorium on executions and commute all death sentences under Nigerian criminal law or Shari'a penal laws.
- » Review and commute all sentences of amputation or stoning to another punishment that takes account both of the crime and of the international prohibition on corporal punishment;
- » Review the Prison Act and ensure that all arrangements for the treatment of prisoners are in conformity with the Nigerian Constitution as well as with Article 10 of the ICCPR, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the UN Standard Minimum Rules for the Treatment of Prisoners and United Nations Standard Minimum Rules for the Administration of Juvenile Justice;
- » Urgently ensure that all detainees in police and prison detention have access to legal counsel, professional medical care, adequate food and visits from family members;
- » Establish an independent and transparent prisons inspectorate to carry out inspection visits to prisons, police stations and state CIDs, and publish their findings;
- » Ensure that the Nigerian Prison Service establishes a central register of all inmates in prisons and other detention centres and ensures that all files of inmates awaiting trial are regularly reviewed;
- » Ensure that the Nigerian Prison Service and individual prison directors receive adequate resources, including funding to improve living conditions and access to health care in Nigerian prisons;



- » Improve the conditions of service of the police, prison service and judiciary.

### **The State Governments should:**

- » Enable all courts to establish effective (electronic) administration of inmates awaiting trial and review these cases;
- » Ensure that courts have the resources to improve the administration and infrastructure of courts;
- » Ensure that inmates are allowed to take proceedings before an independent court to challenge the lawfulness of their detention;
- » Take steps to address the frequent use of holding charges and consequent prolonged arbitrary detention;
- » As an interim measure release inmates who have stayed longer awaiting trial than they would have done had they been convicted and sentenced. Such a step should not preclude full investigation of crimes and the bringing to justice of perpetrators;
- » Ensure that all people with mental illnesses who have not committed crimes – the so-called “civil lunatics” – are released from prison, and provided with appropriate psychiatric care.

### **The Nigerian Prison Service should:**

- » Take immediate measures to ensure that prisoners are held in sanitary and humane conditions, which ensure the physical integrity of all inmates in prisons and detention centres. The conditions in Nigerian prisons should be brought up to the level required by international standards, including the Universal Declaration of Human Rights and UN Standard Minimum Rules for the Treatment of Prisoners;
- » Provide access to medical care and medicines, including care for inmates with a mental illness.
- » Establish a central database consisting of the registration of all prisons in the country. The prison registration should include up-to-date information on all prisoners concerning identity, reasons for imprisonment, details of court, case and sentence, the date of admission and, if available, release, medical information, acts of violence by and use of force against the inmate, and complaints;
- » Ensure that all current and new staff are given training on general and specific duties, and on human rights. In addition, training should at least include the following areas: law, interpersonal skills, health, cultural awareness, specific concerns of women prisoners, and working with minors and mentally disturbed prisoners;
- » Ensure that a full investigation is carried out in the case of a riot or when force has been used by prison staff;

- » Provide strict guidelines on measures of restraint, including handcuffs, and ensure that instruments of restraint will not be used as punishment, as stated in the Standard Minimum Rules;
- » Immediately bring all young offenders' institutions and other detention facilities for children into line with the standards recommended under the Statute of the Child and Adolescent and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

### **Prison directors should ensure that:**

- » Different categories of prisoners are classified and separated within the prison;
- » Children in prison are separated by age and the seriousness of the offence;
- » Staff maintain and improve their skills by offering them opportunities to attend courses, including training on human rights;
- » All inmates, including those awaiting trial, have free access to their relatives and to a lawyer, promptly and regularly during their imprisonment;
- » All prisoners have free access to adequate food, water, sanitation, washing facilities, health care, clean clothing and bedding, exercise, education and rehabilitation activities.

### **The police should:**

- » Inform all accused people of their rights, including the right to legal representation in the event that they cannot afford a lawyer;
- » Ensure that an official register on the arrests and detention of suspects is available, which records the name of the suspect, the reason for the arrest, date and time of the arrest, date of the first appearance before a judge, and identity of law enforcement officials concerned;
- » Ensure that all suspects detained by the police have access to relatives and to their legal representative;
- » Ensure that no person in police detention is threatened or subjected to violence;
- » Bring the accused before a judge or other competent authority without delay;
- » Promptly investigate all complaints of torture and refer cases to the appropriate judicial authority for prosecution;
- » Take disciplinary measures against all police officers who are alleged to have carried out torture.

### **The judiciary should:**

- » Exercise their judicial authority to ensure that the human rights of prisoners and detainees are safeguarded at all times;
- » Exercise their judicial authority to ensure that all individuals currently detained without charge are charged promptly with a recognizable criminal offence or otherwise released;
- » Enquire whether a confession has been made under pressure;
- » Ensure that any statement made as a result of torture will not be used as evidence against the suspect;
- » Address the problem of long and repeated adjournments of trials;
- » Screen the remand caseload on a regular basis to make sure that people are remanded lawfully and cases are dealt with promptly;
- » Take a more pro-active role in ensuring defendants are provided with legal aid;
- » Ensure that judicial investigations and proceedings function so that prisoners are kept in remand detention for the shortest possible period, avoiding, for example, situations where the courts continually remand suspects in custody;
- » Establish a system for regular review of the time detainees spend on remand.

### **The international community, including governments and relevant intergovernmental agencies, should:**

- » Provide technical support for the training of police, prison service staff and the judiciary on the human rights of detainees.

# Appendices

## Appendix 1: The criminal justice system in Nigeria

Nigeria has three forms of penal legislation which operate alongside each other:<sup>100</sup>

- the Penal Code and the accompanying Criminal Procedure Code Cap 81 Laws of the Federation 1990 (CPC)
- the Criminal Code and the accompanying Criminal Procedure Act Cap 80 Laws of the Federation 1990 (CPA)
- the Sharia penal legislation in 12 northern states.

The criminal justice system in Nigeria has three main players: the police, the judiciary and the prisons. At federal level, the judiciary is under the authority of the Chief Justice of the Federation who is appointed by the President. Each state has a Chief Justice. Depending on the nature of the offence, suspects are brought before a state or a federal court. The Attorney General of the Federal Republic is the chief law officer. Each state has its own Attorney General who has wide powers of control over criminal proceedings. The Inspector General of Police (federal level) is head of the Nigeria Police Force. All state Commissioners of Police report to him, and he is appointed by and accountable to the President. The federal Minister of Interior is responsible for the Nigeria Prison Service, which is headed by the Comptroller General of Prisons and divided up under state Commissioners of Prisons. For the purposes of both the prison service and the police force, the country is divided into seven zones.

Co-operation between the police, the judiciary and the prison service is weak. Amnesty International observed that all three blame the others for the current problems in the justice system.<sup>101</sup> Amnesty International's research confirms the conclusion of the UN Special Rapporteur on torture following his visit to Nigeria in March 2007:

*"There is no single entry point for reformers of the dismally inadequate Nigerian criminal justice system. Virtually every component part of the system functions badly. The result is a vicious circle in which each group contributing to the problem [police officers, politicians, and the judiciary] is content to blame the other."<sup>102</sup>*

## Police

Criminal cases are investigated and prosecuted in court by the police, who have the power to arrest a suspect without a warrant. The suspect should be brought before "a magistrate who has the jurisdiction with respect to the offence ... as soon as practicable after he is taken into custody."<sup>103</sup> The police are obliged to inform any person arrested or detained of the grounds for the arrest, in writing within 24 hours. All suspects have the right to remain silent until after consultation with a lawyer.<sup>104</sup> The police officer in charge of the police station has the power to release a suspect on bail, with or without sureties, pending completion of the investigation and prior to charging. Only in the case of a serious offence are the police not permitted to release a suspect on bail. Police bail is free. In practice however, suspects are routinely asked to pay before they are released on police bail.

In the case of a person being suspected of a capital offence, the Investigating Police Officer (IPO) has to send the file to the Director of Public Prosecution (DPP) at the state Ministry of Justice. The DPP will advise the police as to whether or not to charge the suspect. The IPO can also refer a case to the Criminal Investigation Department at state level (State CID). The State CID has detention and investigation facilities. There is no central database for the administration of justice to follow up on cases.

## Judiciary

The judiciary becomes involved as soon as a suspect is brought before a court, or when the file is sent to the DPP. The DPP has to decide if there is a case to answer. If not, the suspect must be released – but only after the DPP has sent official notification of this decision to the prison authorities.

The police bring most suspects before a Magistrate Court, and the Magistrate Courts deal with approximately 80 per cent of criminal cases. Magistrates do not have jurisdiction over capital offences, nor can they grant bail for such cases.

All cases under Penal and Criminal Code which are subject to the death penalty must be tried by the High Court of each state or by the Federal High Court. Appeals handed down by state High Courts are heard by the Federal Court of Appeal. The state Governor has the formal right of clemency or confirmation of implementation.

Capital offences according to Sharia law are tried by the Lower Sharia Courts, with appeals made in the first instance to an Upper Sharia Court, followed by the Sharia Court of Appeal. There are two further options for appeal: the Federal Court of Appeal and the Supreme Court.

The Chief Justice of the federation, Chief Judges of the states and the Attorney General of the Federal Republic have the power to release inmates who have been awaiting trial for longer than the maximum period prescribed for the offence.

## Legal aid

The Legal Aid Council (LAC), funded by the Federal Government, is responsible for providing legal aid to citizens who cannot afford the costs of private legal representation, consultation and advice.<sup>105</sup> The scope of the Legal Aid Council's services is limited to a number of specific

crimes, including murder, manslaughter, assault, stealing, affray and rape. Although armed robbery is not included, the LAC is increasingly taking up those cases as well.

According to the LAC's annual report of 2005, in that year it received almost 2,700 applications of which 368 were rejected and 1,412 were completed. In 2006 the LAC received double that number of applications, of which almost 3,000 were completed. Most cases were for murder, assault or stealing. Since the average number of prisoners awaiting trial is 25,000, of whom 80 per cent have no legal representation, it is clear that the LAC is unable to offer legal aid to those who need it. This is mainly because it lacks both the capacity and the resources to fulfil its constitutional task. In 2007, for example, the LAC employed fewer than 100 lawyers.<sup>106</sup>

In 2006 a draft Legal Aid Act Amendment Bill was sent to the federal Minister of Justice to empower the LAC to review cases of prisoners awaiting trial and to liaise with all stakeholders in the criminal justice system. The Bill has not yet been passed into law but if it is, it will also allow the LAC to visit prisons, police cells and other detention centres.

### **Prerogative of mercy**

The President and state Governors can exercise their right to the prerogative of mercy to release inmates from prison. The Council of State, a federal government body, advises the President on the prerogative of mercy.



## Appendix 2: Budget allocations 2005-2008

Total budget Ministry Interior, total budget Nigeria Prison service and several allocations for staff and maintenance as part of the Nigeria Prison Service budget in Naira.

	2005	2006	2007	2008
<b>Total allocation Ministry Interior</b>	<b>38,659,959,716</b>	<b>41,750,000,000</b>	<b>51,884,721,091</b>	<b>266,371,519,798</b>
<b>Total allocation Nigeria Prison Service</b>	<b>17,578,775,453</b>	<b>16,539,023,086</b>	<b>20,824,615,127</b>	<b>33,806,930,135</b>
Salaries	4,458,191,772	3,757,133,183	3,564,849,701	15,767,540,520
Benefits & allowances	5,760,966,849	5,026,830,087	5,877,120,393	2,787,498,708
Materials	3,375,214,405	2,977,279,949	4,124,591,999	6,454,206,836
Maintenance	95,453,273	146,716,525	143,130,232	287,358,094
Training	24,937,910	52,151,453	57,366,000	60,234,300
Capital projects total	2,874,998,000	2,555,760,000	4,549,583,139	5,000,000,000
<i>Kaduna central</i>	<i>24,000,000</i>			
<i>Kano central</i>		<i>33,000,000</i>		
<i>Lagos Max sec</i>	<i>66,667,000</i>			
<i>Lagos female prison</i>	<i>6,667,000</i>			
<i>Minna prison</i>	<i>13,333,000</i>	<i>4,939,200</i>		
<i>Suleja</i>	<i>10,000,000</i>			
<i>Decongest Ikoyi</i>	<i>40,000,000</i>			
<i>Decongest Kirikiri</i>	<i>66,667,000</i>			
<i>Decongest Enugu</i>	<i>20,000,000</i>	<i>36,616,800</i>		
<i>Drug compounding laboratory at Kuje</i>				<i>20,000,000</i>
<i>Purchase black maria</i>	<i>200,000,000</i>	<i>100,800,000</i>	<i>110,000,000</i> <i>160,000,000</i>	<i>86,000,000</i> <i>13,600,000</i>
<i>Purchase medical equipment</i>	<i>20,000,000</i>	<i>31,360,000</i>	<i>30,000,000</i>	<i>44,496,000</i>
<i>Rehabilitation of 6 prisons in 6 zones</i>			<i>7,500,000</i>	
<i>Rehabilitation nationwide</i>				<i>507,500,000</i>
<i>Upgrading of prison clinics to hospital</i>			<i>40,000,000</i>	<i>30,000,000</i>
<i>Completion of Prison Headquarters &amp; housing units for Comptroller General of Prisons &amp; senior officers</i>			<i>1,100,000,000</i>	
<i>Portable water in prisons</i>		<i>50,960,000</i>	<i>56,000,000</i>	<i>56,000,000</i>
<i>Renovation of central sewage system and conversion of bucket to water system</i>	<i>18,000,000</i>	<i>39,200,000</i>	<i>43,120,000</i>	<i>50,000,000</i>

Source: Nigeria Budget office of the Federation <http://www.budgetoffice.gov.ng/>

## Appendix 3: Prisons visited

### Interviews conducted

	male	female	total
Number of inmates awaiting trial	115	40	155
Number of death row prisoners	33	4	37
Number of convicted prisoners	30	6	36
Number of inmates mentally ill	20	5	25
Total	198	55	253

Source: Amnesty International

### Prison population

prison	Enugu	Goron Dutse	Ikoyi	Kano central	kirikiri female	kirikiri max security	Kuje	Suleja	Sumaila	Wudil	Total
Total	861	520	1933	1268	131	411	507	447	16	91	6185
male	825	520	1933	1230		411	507	427	16	90	5959
female	36			38	131			20		1	226
unconvicted	572	136	1820	1000	107	213	446	263	6	14	4577
convicted	50	378	113		16	84	61	184	10	77	973
inmates sentenced to life	18					22					40
death row inmates	84			1	5	82					172
mentally ill (civil)	43										43
mentally ill (criminal)	76			16							92
awaiting amputation		6								1	7
temporary transfers from other prisons ("lodgers")	10					10					20
babies	4			1	7			1			13

Source: Amnesty International

## Prisons and staff capacity

prison	Enugu	Goron Dutse	Ikoyi	Kano central	kirikiri female	kirikiri max security	Kuje	Suleja	Sumaila	Wudil	total
capacity	636	600	800	690	105	1056	320	250	40	160	4657
lockup	861	520	1933	1268	131	411	507	447	16	91	6185
No of inmates in relation to capacity	135.4%	86.7%	241.6%	183.8%	124.8%	38.9%	158.4%	178.8%	40.0%	56.9%	132.8%
Awaiting trial as % of total lockup	66.4%	26.1%	94.2%	78.9%	81.7%	51.8%	88.0%	53.9%	37.5%	15.4%	74.0%
staff	198	117	143	193	98	143	213	145	12	42	1304
Inmates per staff member (capacity)	3.2	5.1	5.6	3.6	1.1	7.4	1.5	1.7	3.3	3.8	3.6
Inmates per staff member (current population)	4.3	4.4	13.5	6.6	1.3	2.9	2.4	3.1	1.3	2.2	4.7

Source: Amnesty International

## Prison information

prison	Enugu	Goron Dutse	Ikoyi	Kano central	kirikiri female	kirikiri max security	Kuje	Suleja	Sumaila	Wudil
year build	1937	1935	1933	1936	1963	1964	1989	1944	1969	1976
hospital / clinic	yes	yes	yes	yes	no	yes	yes	yes	no	no
female wing	3 cells	no	no	2 cells	9 cells	no	no	1 cell	1 cell	1 cell
death row	18 cells	no	no	6 cells	yes		no	no	no	no
toilets in cells	bucket	yes	yes	yes	yes	yes	yes	yes	yes	yes
electricity in cells		no						no	no	no
running water in cells	no	no	no	no	no	no	no	no	no	no
% inmates with bed in awaiting trial cell	no beds	50%	31%	48%		100%	53%	54%	no beds	85%
school	no	yes	yes	yes	yes	yes	yes	no	no	no
workshop	yes	yes	yes	yes	yes	yes	yes	no	no	yes
ATM daily allowed outside the cell	no	no	no	no	yes	yes	no	no	yes	yes

Source: Amnesty International

## Inmate information

prison	Enugu	Goron Dutse	Ikoyi	Kano central	Kirikiri female	Kirikiri Max Security	Kuje	Suleja	Sumaila	Wudil
longest on death row	25 years			1 year	12 years	23 years				
longest awaiting trial	10 years	16 years	7 years	8 years	5 years	14 years		7 years	7 months	
oldest inmate	87			77	52	83	68		50	75
youngest inmate	15				15	16	11			
largest no of inmates per cell (ATM)	100	67	98	132	38	25	219	48	16	13

Source: Amnesty International

## Endnotes

1. These include the National Human Rights Commission (NHRC), Nigerian NGOs including Access to Justice, Civil Liberty Organization (CLO), Human Rights Law Service (HURILAWS), Legal Defence and Assistance Project (LEDAP), Legal Resources Consortium (LRC), Prisoners Rehabilitation and Welfare Action (PRAWA); international NGOs such as Amnesty International, Human Rights Watch, Penal Reform International; and intergovernmental organizations such as the United Nations (Special Rapporteur on torture, Special Rapporteur on extrajudicial, summary or arbitrary executions and the United Nations Office on Drugs and Crime (UNODC)).
2. "Prison law government review", *The Guardian*, 14 June 2001. NGN100 is GBP0.43 and USD0.84.
3. "Awaiting trial prisoners inhuman – Obasanjo", *Daily Trust*, 2 July 2002.
4. *Report of the National Working Group on Prison Reforms and Decongestion*, February 2005. The Working Group stated in 2005 that the number of inmates awaiting trial was the main cause of overcrowding in urban prisons. The prison audit gives the following background on the inmates awaiting trial: 75 per cent of the prisoners awaiting trial are in custody for indictable offences, such as armed robbery or robbery; 26.4 per cent of them have legal representation from Legal Aid Council or NGOs; 3.7 per cent remain in prison because their files have been lost; 7.8 per cent are in detention because there was no prosecution witness or because the investigating police officer had been transferred; 17 per cent are held because investigations into their cases have not been completed; 40 per cent are held on a holding charge.
5. House of Representatives dialogue on the state of awaiting trial persons in Nigerian prisons, 13 October 2005, *The response of the Federal Ministry of Justice to the problem of awaiting trial persons in Nigeria's prisons*.
6. "Prison Reform: Panel's recommendations will be implemented – Obasanjo" *New Nigerian*, 15 November 2006.
7. The Presidential Commission on Reform of the Administration of Justice in Nigeria, *Proposals for Reform of the Administration of Justice in Nigeria*, November 2006. This commission recommended legal reforms, as well as reforms in human resources, in institutional structures, and in funding. It also called for a case-by-case audit of several categories of inmates. Inmates awaiting trial; inmates who have spent over 10 years in prison or whose case files have been lost; inmates who are suffering from life threatening

diseases; inmates aged 60 or over; and inmates who have been on death row for more than 10 years.

8. PCRAJ, Meeting on Prison Audit. This list of prison inmates included: 110 awaiting trial who have spent over 10 years in prison; 102 awaiting trial whose case files have been lost and who have spent an unreasonable period of time in prison; 128 with life threatening diseases; 87 over the age of 60; 92 who have spent over 10 years on death row; 33 who had been deported from Thailand. In addition, the audit recommended commuting the sentences of 111 prison inmates on death row to life imprisonment.

9. Harmonisation Committee, Key Interventions in the Justice Sector in Nigeria, 1 April 2007.

10. Leadership, Interior minister tasks prison officers on good conduct, 8 January 2008.

11. Those who were to be unconditionally released included: prisoners arrested for minor criminal offences; prisoners who had served longer terms awaiting trial than they would have done had they been convicted of the crimes of which they were suspected; and detainees suffering from ill-health. Other inmates would be assigned legal representatives, paid for by the government, to speed up their trials. See also: Amnesty International, *Nigeria: 'Release' of up to 25,000 Detainees and Prisoners*, 9 January 2006, AI Index: AFR 44/002/2006.

12. "Nigeria 10,000 inmates to be freed", *New York Times*, 25 August 2006.

13. "Nigeria frees elderly prisoners before power shift", Reuters, 17 May 2007.

14. See Appendix 1 for the prison budget 2005-2008. The budget allocations have significantly grown between 2005 and 2008. The annual inflation rate over these years was 17.8 per cent in 2005, 8.2 per cent in 2006 and 5.6 per cent in 2007. In 2008, an inflation rate of 7.9 per cent is expected.

15. This bill emphasized the rights of prisoners and aimed at providing education and training for all prison inmates.

16. Other draft bills that have not been passed include: Administration of Criminal Justice Bill, the Victims of Crime Remedies Bill; National Human Rights Commission Act (Amendment) Bill; Legal Aid Act (Amendment) Bill; Draft Uniform Law of Commercial Arbitration; Evidence Act (Reform) Draft Bill;

- Elimination of Violence from Society Bill; Bill on Reform of Discriminatory Laws.
17. "Prison reform: Panel's recommendations will be implemented – Obasanjo", *New Nigerian*, 15 November 2006.
18. Amnesty International interview, July 2007.
19. The Constitution of the Federal Republic of Nigeria, 1999, Article 35 (1) (a) and (c). According to the Constitution, a person can be imprisoned: in execution of the sentence or order of a court, upon reasonable suspicion of his having committed a criminal offence or to prevent him committing a criminal offence, provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence.
20. Article 9(4) of the ICCPR guarantees the right to challenge the lawfulness of detention: "Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."
21. The Constitution of the Federal Republic of Nigeria, 1999, Section 35 (4) and (5).
22. Amnesty International interview, July 2007.
23. Amnesty International interview, July 2007.
24. *Enwere vs Commissioner of Police* (1993) 6 NWLR pt 299, p333. Nigerian Federal Court of Appeal.
25. Amnesty International interview, July 2007.
26. Constitution of the Federal Republic of Nigeria, Article 36(5): "Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty...."
27. See Human Rights Committee, General Comment 8, Para 3.
28. According to the Prison Audit, approximately 17 per cent of inmates awaiting trial are in pre-trial detention because of incomplete investigations. Almost 8 per cent of inmates awaiting trial remain in prison because of the unavailability of prosecution witnesses or investigating police officers.
29. Amnesty International interview, July 2007, Kano.
30. Amnesty International interview, July 2007, Enugu.
31. "The situation has reached a point where accused inmates pay for the IPOs and witnesses to [come to] court to testify, to enable proceedings to continue uninterrupted." See: Report of the National Working Group on Prison Reforms and Decongestion, February 2005.
32. Amnesty International interview, July 2007.
33. The Prison Audit showed that the case files of almost 6 per cent of inmates awaiting trial have been lost and they risk waiting indefinitely for their trial.
34. Legal Aid Council, July 2007 Court Appearances, [http://legalaidcouncilofnigeria.org/JULY%202007%20COURT%20APPEARANCE S.doc](http://legalaidcouncilofnigeria.org/JULY%202007%20COURT%20APPEARANCE%20S.doc), accessed on 15 January 2008.
35. Amnesty International interview, July 2007.
36. Amnesty International interview, July 2007.
37. Amnesty International interview, July 2007 and January 2008.
38. Amnesty International interview, July 2007.
39. Amnesty International interview, July 2007, Kano.
40. Amnesty International interview, July 2007, Kuje.
41. Amnesty International interview, July 2007, Kuje.
42. See also: Amnesty International, *Nigeria: Rape – the silent weapon* (AI Index: AFR 44/020/2006).
43. The UN Special Rapporteur on torture concluded that torture and ill-treatment is widespread in police custody, and is systemic particularly in the Criminal Investigation Departments. See: Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak (Mission to Nigeria), [http://ap.ohchr.org/documents/dpage\\_e.aspx?m=103](http://ap.ohchr.org/documents/dpage_e.aspx?m=103) (Accessed on 15 January 2008).
44. National Human Rights Commission (2007), *The State of Human Rights in Nigeria 2005-2006: ...the Nigerian Army, the Nigeria Police Force and other law enforcement agencies commit the act of torture with impunity*.
45. Article 12 of the Declaration against Torture, Article 15 of the Convention against Torture.
46. Amnesty International interview, July 2007.
47. Amnesty International interview, July 2007.
48. Amnesty International interview, July 2007.
49. Evidence Act, Section 28.
50. See Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Princ 17(2); Basic Principles on the Role of Lawyers, Princ 6.
51. See Human Rights Committee, *Henry and Douglas v Jamaica*, No 571/1994, 26 July 1996, UN Doc CCPR/C/57/D/571/1994, para 9.2.
52. Amnesty International interview with the Legal Aid Council, Abuja, July 2007.
53. Report of the National Working Group on Prison Reform and Decongestion, February 2005.
54. Amnesty International interview, July 2007.
55. UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 17(2).
56. Amnesty International interview, July 2007.
57. Article 3 of the Universal Declaration of Human Rights; Article 6 of the ICCPR; Article 6 of the Convention on the Rights of the Child; Article 4 of the African Charter.
58. Speech of the chairman of the PCRAJ, 10 May 2007.
59. Amnesty International, *Nigeria: Government misleads world about death penalty record*, 17 December 2007 and *Nigeria: Stop executions – adopt a moratorium, Joint Public statement by Nigerian NGOs and Amnesty International*, 17 December 2007.
60. The Robbery and Firearms Tribunals were established in 1984. Defendants had no right to appeal. After 1999 jurisdiction was supposed to be restored to state level High Courts with the right to appeal. However, in many cases this did not happen.
61. Amnesty International interview, July 2007.
62. Amnesty International interview, July 2007.

63. Amnesty International interview, July 2007.
64. Amnesty International interview, July 2007.
65. ICCPR, Article 7; Convention against Torture.
66. In addition to those facilities classified as prisons, there are 83 satellite camps, 10 major farm centres, 4 young offenders' institutions and one open prison camp. Farm centres are agricultural prison camps, set up to train inmates.
67. See Appendix 2 for more information on the prisons visited by Amnesty International.
68. According to the Prison Audit, around 15 per cent of all inmates who are awaiting trial remain in prison because they are unable to post their bail.
69. Amnesty International interview, July 2007.
70. According to the Prison Audit, more than one third of the convicts in prison are there for this reason.
71. Amnesty International interview, July 2007.
72. Amnesty International interview, July 2007.
73. SMR, Rule 19.
74. On 10 October 2007 the Minister of Interior announced that this amount would be increased on 1 January 2008 to NGN200 (GB£0.87 or US\$1.7).
75. According to the Prison Audit, only two out of 144 prisons have working gas cookers.
76. SMR, Rule 20.
77. SMR, Rules 12-14.
78. SMR, Rule 22(1): At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.
79. The Prison Audit counted 645 inmates who had life threatening ailments.
80. Amnesty International interview, July 2007.
81. Article 25(1) of the Universal Declaration states: "Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."
82. Article 16(1) of the African Charter states: Every individual shall have the right to enjoy the best attainable state of physical and mental health.
83. According to the Prison Audit, 321 children and 341 people with mental illnesses were incarcerated.
84. According to the Prison Audit: "In all prisons visited vocational facilities were either non-existent or grossly inadequate. There were no standard workshops for training and where there were workshops, the trainers, tools and necessary equipment were not available." See: Report of the National Working Group on Prison Reform and Decongestion, February 2005.
85. SMR, Rule 23(1). The lack of such treatment is described in the report of the NHRC on the state of human rights in Nigeria: Delegates of the NHRC who visited Kano prison met a woman who was about to give birth. When the delegates urged the prison staff to take her to a hospital, the authorities complained that the government had not provided them with enough money to do that. As the situation was critical, the NHRC monitoring team decided to pay the necessary NGN10,000.
86. *The Punch*, "FG investigates pregnancies among female prisoners", 8 January 2008.
87. LEDAP, *Report on Needs Assessment Survey on the Right Issues of Nigerian Women Prisoners* and: PRAWA, *A Report on Women Prisoners and Mothers with Babies in Prison in Nigeria*, 2004.
88. Amnesty International interview, July 2007.
89. Amnesty International interview, July 2007.
90. Amnesty International interview, July 2007.
91. Article 10(2), 14(4) and 24(1) of the ICCPR; Principle 2 of the Declaration of the Rights of the Child; Article 3(1), 37 and 40 of the Convention on the Rights of the Child. Article 17 of the African Charter on The Rights and Welfare of the Child.
92. The Prison Audit showed that almost 1 in 100 of all prisoners in Nigeria are minors of whom 60 per cent are convicted.
93. According to the NHRC, at the time of their visit there were 41 juveniles in Enugu prison, aged between 12 and 18, See: NHRC, *State of Human Rights in Nigeria 2005-2006*.
94. UN Rules for the Protection of Juveniles Deprived of their Liberty, Convention on the Rights of the Child.
95. Criminal Procedure Act, Chapter 1, Article 2(1).
96. Amnesty International interview, July 2007.
97. Amnesty International interview, July 2007.
98. Prison Act, 7(1), (3) and (4). CAP 366.
99. Amnesty International interview, July 2007.
100. The three systems operate according to different offences, punishments and criminal procedures, depending on the state in which the law is applied and on the religion of the accused. For example, the Sharia penal codes are applicable to Muslims in the 12 northern states as well as to non-Muslims who agree to be tried in a Sharia court. The Penal Code applies to all residents of the states under its jurisdiction; likewise the Criminal Code applies to all residents in the southern states under its jurisdiction.
101. Amnesty International interview, July 2007.
102. Special Rapporteur On Torture Concludes Visit To Nigeria, Hr/07/35, 12 March 2007.
103. Laws of the Federation of Nigeria, 1990, Police Act, Part V, Article 23.
104. The Constitution of the Federal Republic of Nigeria, 1999, Article 35 (3) and (4).
105. Legal Aid Act, Cap L9, Laws of the Federation 2004.
106. In 2005 the LAC's budget was almost 250 million Naira (NGN250 million). In 2006 this was increased a little to NGN261.5 million and it remained at this level in 2007. In 2008, the allocation grew slightly to almost NGN380 million as a result of increased salaries.





## Nigeria

# Prisoners' rights systematically flouted

Three out of five people held behind bars in Nigeria's prisons have not been convicted of any offence. They are waiting, in appalling conditions, to be tried. Most wait two, three or four years, and some more than seven, with no idea how long they will be held.

In Nigeria's prisons, many inmates sleep two to a bed or on the floor in filthy cells. Toilets are blocked and overflowing or simply non-existent, and there is no running water. Disease is widespread.

Even before reaching the prison, many inmates have been beaten by the police. Few can afford lawyers, and there are not enough government-paid legal aid lawyers to go round.

The Nigerian government has often said it will reform the criminal justice system, but it has not done so. This report, based on visits to 10 prisons and hundreds of interviews, calls for urgent prison improvements and reforms to ensure that anyone detained is either tried within a reasonable time or released. Promises are not enough: reform of Nigeria's prison system is long overdue.

**February 2008**

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