

## **“Rest in Pieces”**

### **Police Torture and Deaths in Custody in Nigeria**

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## I. Summary

Since the end of military rule in 1999, Nigeria, under President Olusegun Obasanjo, has moved to take an increasingly influential position in Africa. Heralded on the international stage for his efforts to broker peace in regional conflicts, Obasanjo has taken some important steps to combat corruption and introduce economic reforms in Nigeria. The Government of Nigeria has not shown the same commitment to addressing human rights abuses, in particular widespread and persistent violations perpetrated by the security forces, most notably the police, military and other law enforcement agencies against persons they detain. While foreign governments have applauded Obasanjo's efforts to fight corruption, they have been reluctant to criticize Nigeria's human rights record, including the frequent use of torture by the police.

Despite national and international law prohibiting the use of torture, a Human Rights Watch investigation in Nigeria in March 2005 found the use of torture and other cruel, inhuman, and degrading treatment by the Nigerian Police Force to be widespread and routine. The organization conducted interviews in the cities of Enugu, Lagos and Kano with some fifty victims and witnesses. They described brutal acts of torture, dozens of which resulted in death. The violations were perpetrated by and with the knowledge of senior police officers, including inspectors, divisional police officers, a deputy superintendent of police and a chief superintendent of police. So routine is the practice, that some of these senior officers are known within the police stations by the nickname "Officer in Charge Torture." The abuse that Human Rights Watch documented is carried out in local and state police stations, often in interrogation rooms which witnesses and victims said appeared to be especially equipped for the purpose.

Victims and witnesses told Human Rights Watch that the forms of torture and other ill-treatment committed by the Nigerian police included the tying of arms and legs tightly behind the body, suspension by hands and legs from the ceiling or a pole, repeated and severe beatings with metal or wooden objects (including planks of wood, iron bars, and cable wire), resting of concrete blocks on the arms and back while suspended, spraying of tear gas in the face and eyes, rape of and other sexual violence against female detainees, use of pliers or electric shocks on the penis, shooting in the foot or leg, stoning, death threats, slapping and kicking with hands and boots and denial of food and water.

A twenty-three year-old man who was arrested by the police in Enugu in mid 2004 described his treatment to Human Rights Watch: "They handcuffed me and tied me with

my hands behind my knees, a wooden rod behind my knees, and hung me from hooks on the wall, like goal posts. Then they started beating me. They got a broomstick hair [bristle] and inserted it into my penis until there was blood coming out. Then they put tear gas powder in a cloth and tied it round my eyes. They said they were going to shoot me unless I admitted I was the robber. This went on for four hours.”<sup>1</sup>

In another account, a thirty-six-year-old trader who was detained at the Kano police headquarters told researchers: “Our arms were tied with handcuffs. One at a time we were hung by a chain from the ceiling fan hook. I was the first. They started beating me with a yam pounder, saying I should confess for the robbery. I didn’t know what they were talking about. I was beaten, beaten, beaten. They beat my knees, the soles of my feet, my back and my joints. This went on for twenty-five minutes. I was beaten too much. I shit and piss while I was hanging. Then I became unconscious.”<sup>2</sup>

Human Rights Watch interviews with witnesses documented dozens of deaths as a result of injuries sustained during torture or after summary executions. Four detainees in Kano estimated that between twenty and forty people had died in the state police headquarters alone between early 2003 and early 2005. One witness described to researchers how police officers in Lagos shouted “rest in pieces” after shooting suspects in their custody. He explained this was a common euphemism used by the police to signify the death of a detainee.

The majority of the victims are ordinary criminal suspects, arrested for crimes ranging from petty theft to armed robbery. Many of these arrests were unlawful and arbitrary because the police failed to inform the suspects of their reasons for arrest or produce evidence against them. Suspects who claimed to be innocent told Human Rights Watch researchers that they were arbitrarily apprehended at police checkpoints or during anti-crime patrols, either because they happened to be in the wrong place at the wrong time or on the basis of what the police later told them was a tip-off. Most of those interviewed said they were tortured to extract confessions admitting to an alleged crime and forced to sign a statement that was written or dictated by a police officer. Many described how they signed a statement without knowing what it said because they were illiterate or because the document was withheld from them. According to the interviews, young men aged between eighteen and thirty-five appeared to be most vulnerable to torture and ill-treatment. However, Human Rights Watch also documented cases of abuse against women, children and the elderly.

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<sup>1</sup> Human Rights Watch interview, Enugu, March 4, 2005.

<sup>2</sup> Human Rights Watch interview, Kano, March 2005.

Human Rights Watch also investigated cases of torture and ill-treatment against members of political organizations, particularly those who advocate greater autonomy for a distinct ethnic, regional or religious group. In particular, Human Rights Watch documented violations against members of the Igbo Movement for the Actualisation of the Sovereign State of Biafra (MASSOB). In these cases, the purpose of torture, according to the victims, appeared to be punishment and to force them to renounce membership in the organization.

Although this report focuses primarily on torture by the police, Human Rights Watch came across cases of torture and ill-treatment of suspects held in the custody of other law enforcement agencies, such as the Economic and Financial Crimes Commission (EFCC) and the National Drug Law Enforcement Agency (NDLEA).

Disregard for due process of law, which facilitates the abuse of power, is characteristic to all the cases documented. Amongst the main concerns identified are the failure to inform suspects of the reasons for their arrest, lack of legal representation, prolonged pre-trial detention and acceptance by magistrates and judges of confessions that were extracted under torture.

Impunity among those in the security forces is one of the biggest single obstacles to the reduction of torture and other serious abuses by police in Nigeria. Deeply engrained societal attitudes that accept police torture and other abuses as legitimate tools to combat crime help sustain this impunity. For many Nigerians who have experienced decades of oppression and brutality by military rulers, the use of violence by the institutions of the state is accepted, even seen as normal. One female detainee who had been brutally beaten in Lagos told Human Rights Watch: “Of course the police will torture, that is their work. If they see suspects, they must torture.”<sup>3</sup> Even when they know the police action was wrong, indeed illegal, those interviewed often described feeling utterly powerless to seek redress. The fact that in all but a handful of cases, there was no accountability for violations committed by the individual police officer no doubt emboldened the perpetrators and has perpetuated the culture of violence in the Nigerian Police Force.

Victims of police torture who attempt to attain accountability face numerous obstacles. Many torture victims who had reported their experiences to the police authorities or representatives of local non-governmental organizations told Human Rights Watch that they later faced intimidation, harassment and obstruction by the police. For example,

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<sup>3</sup> Human Rights Watch interview, Lagos, March 9, 2005.

two schoolgirls who were gang raped by police in Enugu, received threatening phone-calls from the principal accused. He told them, "If you don't drop the case, I will deal with you and show you I am a man."<sup>4</sup>

Official channels for registering complaints, such as the Police Complaints Bureau and the National Human Rights Commission, are acutely under-resourced and lack political support. In addition, the failure to carry out legally required inquests and autopsies on suspects who died in custody further impedes accountability. In the unlikely event that a legal case is brought against an officer, obstruction or lack of co-operation from the police and connivance with the lower cadres of the judiciary ensure that prosecution is rare. According to Human Rights Watch interviews with victims, human rights organizations, lawyers, government and police representatives, the end of military rule in 1999 has unfortunately seen no successful prosecutions against Nigerian police officers alleged to have committed torture.

National efforts to reform the police have, to date, been largely symbolic and consistently failed to prioritize human rights issues, including torture. An ambitious new ten-point program, launched by the Acting Inspector General of Police in January 2005, offers some hope that more comprehensive and meaningful reform is at last being considered. A review of the Police Act, initiated in November 2004, is also a welcome opportunity to bring the laws governing the police into line with international standards, particularly the inclusion of a code of conduct that specifically prohibits the use of torture. Whether the police leadership can rise to the challenge and contest the many vested interests opposing change -- both from inside the police force and in the wider political environment -- will depend on political and financial support from President Obasanjo and the executive branch of government.

The international community, in particular the British and United States governments, both of whom have since 1999 invested millions of dollars into developing the Nigerian Police Force, must also take a stronger stance to pressure the Nigerian government to bring about an end to the torture of detainees, address impunity for police abuses and bring about genuine reform. Both governments have repeatedly assured Human Rights Watch they are voicing concerns about human rights issues with the Nigerian authorities. However, this approach has proven to be largely ineffective as police abuses, including routine torture, persist. Human Rights Watch calls on the British and the U.S. governments to at the very least condition continued financial assistance, equipment and training they are now providing to Nigerian police to measurable decreases in abusive

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<sup>4</sup> Human Rights Watch interview, Enugu, March 3, 2005.

police practices. It also calls on the British and U.S. governments to publicly denounce torture and killings by the Nigerian Police Force.

## **II. Recommendations**

### ***To the Nigerian federal and state governments and the police authorities***

- Publicly condemn the use of torture and ill-treatment by police officers and other law enforcement agencies, including through a public information campaign to increase awareness that torture is forbidden under Nigerian and international law.
- Investigate promptly and independently all allegations of torture and ill-treatment by police officers or other law enforcement agencies. Identify the individuals responsible for ordering and carrying out the torture and immediately suspend them from active duty, pending criminal prosecution.
- Ensure strict safeguards against arbitrary arrest are incorporated into the laws of criminal procedure, the Police Act and codes of conduct for law enforcement agencies. In particular, suspects should be informed at the time of arrest of the reason for their arrest, promptly informed of the charges against them and due process adhered to at all times.
- Ensure that persons taken into custody are charged and brought before a court of competent jurisdiction within twenty-four hours. Where there is no court within a forty kilometer radius this should be within a reasonable time, ideally forty-eight hours, as provided for in the Nigerian constitution. Immediately release or charge with a recognizable criminal offense all those currently held in police or prison custody without charge.
- Legal representation should be mandatory for all persons charged with capital offenses, who should be brought before a court of competent jurisdiction without due delay and in any case within two months of arrest, as provided for in the Nigerian constitution.
- Ensure police officers inform suspects of their right to legal representation at the time of arrest, including through the distribution of posters and pamphlets explaining their rights, which should be put up in all police stations country-wide.
- Increase the resources to the Legal Aid Council to provide free legal assistance to indigent persons.
- Ensure that all suspects in police custody are given adequate food and water and granted access to medical treatment where required.

- Ensure that legally required autopsies are carried out for every person who dies while in custody of any agency of the state, and make autopsy reports publicly available. Strengthen coroners' laws to ensure stricter penalties for failure of the police to comply with requirements for inquests and improve witness protection for those giving information to initiate or assist an inquest to death in custody.
- Introduce a compulsory regular reporting mechanism from divisional police stations to the force headquarters, on complaints lodged about abuses, including torture, killings or extortion. This should include details of how they are being followed up and the status of investigation. The information should be made public.
- Increase the resources and staffing of internal oversight bodies such as Police Complaints Bureau and the Human Rights Units to investigate allegations of police abuse. Publicize the existence of these bodies.
- Amend the Police Service Commission Act to grant the Police Service Commission the powers to conduct independent investigation into police misconduct of a criminal nature, including serious human rights abuses, and make referrals to the prosecutor. Provide extra resources, including equipment, personnel and training to the commission's investigation department.
- Thoroughly review the police training curriculum to include comprehensive training on human rights issues including legal and appropriate interrogation techniques. Provide comprehensive training for police officers on the conduct of investigations. All training must be consistent with international human rights standards, such as the United Nations Code of Conduct for Law Enforcement Officials and other international human rights standards.
- Compensate victims of torture, ill-treatment and arbitrary detention adequately and speedily.
- Take steps to end widespread extortion of detainees by police officials. Thoroughly investigate all allegations of extortion by such personnel and take appropriate disciplinary action against all those found responsible.
- Sign and ratify the Optional Protocol to the United Nations Convention Against Torture, allowing visits to Nigeria by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture.

### ***To the Judiciary***

- Ensure that all defendants are informed of and understand their right to legal representation. Trials should be adjourned to offer time to find a lawyer.

- Limit the use of confessions as a basis for pre-trial detention or conviction. Do not accept as evidence confessions which appear to be extracted under torture. If a defendant alleges during the course of judicial proceedings that he or she has been compelled to make a statement or to confess guilt, judges should order a prompt and impartial investigation into the allegation.
- Ensure that all defendants are brought to trial within a reasonable time. The authorities should show special diligence in bringing the case to trial if the accused is in pre-trial detention.

***To the U.K. Department for International Development (DFID), U.S. Agency for International Development (USAID) and other donors***

- Put human rights and the rule of law at the heart of diplomatic relations. Publicly condemn the practice of torture and ill-treatment by the Nigerian Police Force and urge the Nigerian authorities to take immediate steps to investigate and prosecute members of the police force and other law enforcement agencies responsible for human rights violations.
- Governments providing assistance or training to the Nigerian Police Force should ensure that human rights training is incorporated at all levels and that mechanisms are put in place to monitor whether police officers adhere to them in practice.
- Fund local NGOs to improve the monitoring and documenting of police abuses and to undertake advocacy at a national level.
- Condition further financial assistance, equipment, training or other aid to the police or other law enforcement agencies such as the EFCC or NDLEA on concrete measures to prevent and end impunity for torture. This should include the investigation of reported torture cases, the suspension of officers alleged to have committed torture, and prosecution of those against whom there is substantial evidence.
- The Special Rapporteur of the United Nations Commission on Human Rights on the question of torture and the African Commission “focal point” on Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa should request permission to visit Nigeria and prepare a report on torture and ill-treatment for their mandating bodies, with recommendations to the government of Nigeria.

### **III. Methods**

This report is based on research conducted by Human Rights Watch in Nigeria in March 2005. Researchers interviewed fifty current or former detainees in Enugu in the south-

east, Lagos in the south-west and Kano in the north, all of whom alleged they had been tortured in the custody of police or other law enforcement agencies within the last four years. Twenty-nine of those interviewed were in prison of whom three had been convicted after having stood trial, and the remainder awaiting trial.

The main focus of this report is the treatment of ordinary criminal suspects, who made up the majority of those interviewed. However, those interviewed also included seven people arrested for membership of a self-determination group. In addition to interviews with victims of torture, Human Rights Watch visited four police stations and met police authorities at the state and federal levels. Researchers also met state government officials, Nigerian human rights groups and lawyers.

This report aims to demonstrate clear patterns of torture and deaths in custody by the police in Nigeria today, examine the factors that facilitate this, and discuss the response of the police authorities and international community to the problem. This report does not claim to be a comprehensive study of police torture in all parts of the country; rather it focuses on a limited number of locations and cases from the last four years. This research confirms patterns documented by Human Rights Watch and local non-governmental organizations in previous years which suggest that police torture and deaths in custody are widespread problems across Nigeria, which have existed for decades.

Human Rights Watch was able to document cases of police torture and deaths in custody in seven of Nigeria's thirty-six states and in the federal capital territory. The locations of Enugu, Lagos and Kano were chosen to reflect the geographical, ethnic and religious balance of Nigeria. In the course of the research, Human Rights Watch also gathered testimony from individuals alleging torture or ill-treatment by police in the states of Anambra in the south-east, Benue in central Nigeria, Imo in the south-east, Katsina in the north, and the federal capital, Abuja.

In the context of this research, Human Rights Watch came across many other allegations of serious violations by the police, including extortion, arbitrary arrest, excessive periods of pre-trial detention, and extra-judicial executions, illustrating the deep-rooted problems that exist within the police and judicial system in Nigeria. Human Rights Watch has in the past reported on these concerns and continues to raise them with the Nigerian authorities.<sup>5</sup>

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<sup>5</sup> See for example, Human Rights Watch, "Revenge in the Name of Religion: The cycle of violence in Plateau and Kano States," May 2005, and "Renewed Crackdown on Freedom of Expression," December 2003, "The

## IV. Background: Attitudes Towards Policing

### ***History of Policing in Pre-Colonial and Colonial Nigeria***

Prior to the onset of colonization by the British in 1861, traditional African policing methods were rooted in the community and closely interlinked with social and religious structures. The enforcement of traditional customs and beliefs was carried out by community structures such as age grades (formal organizations whose membership is based on pre-determined age range), secret societies or vocational guilds (for example, of hunters, farmers or fishermen). Through these diffuse systems of crime control, law and order was maintained, largely without the use of violence.<sup>6</sup>

As the British sought colonial expansion across the territories known today as Nigeria, they established local, decentralized police forces. The first such force was created to police the Lagos colony in 1861. Subsequent constabularies were formed in what became the northern and southern protectorates. The composition of these police forces varied depending on location. For example, in the Lagos colony a deliberate strategy utilized officers from the linguistically and culturally distinct Hausa ethnic group from the north of the country. This practice appeared to alienate the police from the local community they were employed to control. By contrast in the northern Nigerian protectorate a system of indirect rule depended on the Hausa chiefs and emirs, and thus the emir's existing police system was strengthened.<sup>7</sup>

The primary purpose of the police during this time was to advance the economic and political agenda of the colonizers. In many areas, the police engaged in the brutal subjugation of communities and the suppression of resistance to colonial rule. The use of violence and repression from the beginning of the colonial era, marked a dislocation

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Miss World riots': Continued Impunity for Killings in Kaduna," July 2003, and "Jos, A City Torn Apart," December 2001. All Human Rights Watch's reports on Nigeria are accessible on the Human Rights Watch website: [www.hrw.org](http://www.hrw.org)

<sup>6</sup> Akin Ibidapo-Obe, "Police Brutality: Dimensions and Control in Nigeria," in Civil Liberties Organisation, *Law Enforcement and Human Rights in Nigeria* (Lagos, 1994), and *Human Rights Practices in the Nigerian Police Force*, Constitutional Rights Project, (Lagos, 1993). For a detailed history of the police in Nigeria see, T. Tamuno, *The Police in Modern Nigeria*, (University Press Ibadan, 1970).

<sup>7</sup> *Human Rights Practices in the Nigerian Police Force*, Constitutional Rights Project, (Lagos, 1993) and T. Tamuno, *The Police in Modern Nigeria*, (University Press Ibadan, 1970).

in the relationship between the police and local communities, which has characterized law enforcement practices in Nigeria ever since.<sup>8</sup>

In 1930, the northern and southern police forces merged into the first national police force -- the Nigerian Police Force -- headed by an Inspector General of Police. The following years saw further changes in the organization of the force, such as the introduction of regional commands to reflect the federalism of Nigeria. Responsibility for maintaining law and order was now shared by federal and regional governments. The same basic structure was retained after Nigeria gained independence from the British in 1960. By this time, public perceptions of the police were firmly grounded in their experience of the use of the police force to extend colonial domination, for example, in the suppression of demonstrations from the late 1920s, workers strikes in the 1940s and communal violence from the 1950s.<sup>9</sup> Post independence, successive military regimes used the police to enforce authoritarian rule, further entrenching a culture of violence and inhibiting the development of democratic institutions, founded on the rule of law.<sup>10</sup>

For decades the police in Nigeria have betrayed their responsibility to protect Nigerian citizens and have instead preyed on them for economic gain. Indeed, the relationship between citizens and the police is very often characterized by brutality, confrontation and exploitation. Research conducted in 2000 by the Centre for Law Enforcement and Education (CLEEN), a Lagos based NGO, found that the use of violence by the police against citizens in Nigeria was widespread. Of 637 respondents to a survey carried out in fourteen states, 14.8 percent said they had been beaten by the police, 22.5 percent said police had threatened to shoot them in the past, and 73.2 percent said they had witnessed the police beating another person. A sample of 197 prison inmates, revealed higher figures of police abuse; 81 percent of respondents said they had been beaten or slapped and 39 percent burnt with hot objects.<sup>11</sup>

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<sup>8</sup> Innocent Chukwuma, "Police Transformation in Nigeria: Problems and Prospects," paper presented at conference on *Crime and Policing in Transitional Societies*, Konrad Adenauer Stiftung, in conjunction with the South African Institute for International Affairs, University of Witwatersrand, Johannesburg, September 2000.

<sup>9</sup> T. Tamuno, *The Police in Modern Nigeria*, (University Press Ibadan, 1970), and Etannibi Alemika and Innocent Chukwuma, "Analysis of Police and Policing in Nigeria: A desk study on the role of policing as a barrier to change or driver of change in Nigeria," prepared for the Department For International Development, 2004.

<sup>10</sup> For details of human rights violations perpetrated by the police, military and other security forces during the periods of military rule in Nigeria, see Human Rights Watch, "The Ogoni Crisis: A Case Study of Military Repression in Southeastern Nigeria," July 1995, and "Permanent Transition: Current Violations of Human Rights in Nigeria," September 1996, and "Situation of Human Rights in Nigeria, Report Submitted by the Special Rapporteur of the Commission for Human Rights, Mr. Soli Jehangir Sobabjee pursuant to commission resolution 1997/53," E/CN.4/1998/62, and "The Human Rights Violations Investigation Commission Report," by Hon. Justice Chukwudifu A. Oputa, found at [www.oputapanelreport.org](http://www.oputapanelreport.org)

<sup>11</sup> Etannibi Alemika and Innocent Chukwuma, *Police Community Violence in Nigeria*, Centre for Law Enforcement Education, Lagos, February 2000 .

Patterns of police killings and excessive use of force have been documented by other local and international human rights organizations.<sup>12</sup> Local organizations and the media have reported circumstances in which police obliged motorists stop at checkpoints and then shot those who refuse to pay bribes of as little as twenty naira (US\$ 0.15).<sup>13</sup> For the average Nigerian, encounters with the police are negative and public confidence in the force is extremely low.<sup>14</sup>

A combination of factors has contributed to this situation. Firstly, like many government institutions, a history of neglect has left the Nigerian Police Force under-resourced.<sup>15</sup> Since 1999 the government has sought to address this by progressively increasing the federal allocation to the force. In 2003 this was 8.3 billion naira (US\$ 63 million) for capital expenditure.<sup>16</sup> Despite these increases, a Nigerian police reform expert explained to Human Rights Watch that poor budgetary planning and processes mean funds are misspent or wrongly allocated. The centrally planned budgeting process allows little input from state and divisional commands and so often their most basic resource needs are not met.<sup>17</sup>

At a practical level, this has affected the physical infrastructure of the force. When Human Rights Watch researchers visited police stations in Lagos, Kano and other parts of the country they observed poorly maintained buildings, with an intermittent power supply and lacking basic office equipment such as telephones, computers or filing cabinets.<sup>18</sup>

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<sup>12</sup> "Impunity in Nigeria, Reports of extra-judicial, arbitrary and summary executions in Nigeria, December 2001-December 2003," LEDAP, May 2004, and "Nigeria: Security forces constantly fail to protect and respect human rights," Amnesty International, 2003.

<sup>13</sup> For example, "Shot to death," in *The Educator*, official newsletter of the Civil Liberties Organization, July-September 2004, and "Nigerian Police slay driver, triggering riot in south-west," Associated Press, January 14, 2005, "Police Kill 9, Arrest 2," *This Day*, October 21, 2004, "Nigerian police kill 3 over 15-cent bribe," PANA, August 18, 2004.

<sup>14</sup> See also Etannibi Alemika and Innocent Chukwuma, *Police Community Violence in Nigeria*, Centre for Law Enforcement Education, Lagos, February 2000, and "Abusers not protectors -- how Nigerians view their police force," IRIN, May 24, 2005.

<sup>15</sup> Human Rights Watch interview Lagos, March 7, 2005, telephone interview, May 23, 2005, and Etannibi Alemika and Innocent Chukwuma, "Analysis of Police and Policing in Nigeria: A desk study on the role of policing as a barrier to change or driver of change in Nigeria", prepared for the Department for International Development, 2004.

<sup>16</sup> Human Rights Watch telephone interview with senior staff of the Police Service Commission, May 23, 2005.

<sup>17</sup> Human Rights Watch telephone interview, June 24, 2005.

<sup>18</sup> See also, "Report of the Police Station Visitor Walkthrough Survey Conducted on October 29-31, 2003 by Centre for Law Enforcement Education (CLEEN), Lagos, Nigeria."

Like many other state employees in Nigeria, police officers are poorly trained, ill-equipped and poorly remunerated. The average take-home salary for a constable is approximately US\$ 61 per month, slightly less than the average wage for a schoolteacher which is approximately US\$ 77 per month. Indeed partly because of their poor pay and conditions, corruption within the force is rampant as the lower cadres try to supplement their meager incomes. At the other end of the scale however, is a more gratuitous form of corruption, appeared to be motivated purely by greed.<sup>19</sup> This extends to the very highest levels, allegedly including the former Inspector General of Police who in January 2005 resigned and was subsequently accused of stealing US\$ 98 million of public funds.<sup>20</sup>

Rising poverty, high unemployment and the breakdown of traditional social structures have led to an upsurge of violent crime in recent years which the Nigerian police have been ill-equipped to address.<sup>21</sup> Official crime statistics, compiled by the police, show that reported incidents of murder across the country increased from 1,629 in 1994 to 2,136 in 2003. Incidents of armed robbery increased from 2,044 in 1994 to 3,497 in 2003.<sup>22</sup> While crime trends are notoriously difficult to analyze or interpret, it is apparent that the public perception is that crime rates in Nigeria are extremely high, particularly armed robbery.<sup>23</sup> Crime rates and the perception of crime have been exacerbated by the high proliferation of small arms throughout the country. Fully and semi-automatic rifles, shotguns, machine guns and shoulder fired rockets are readily available for purchase in parts of the Niger Delta.<sup>24</sup> Many of these weapons are smuggled through Nigeria's porous borders from neighboring conflicts in west and central Africa. Others are stolen or purchased from the security forces.<sup>25</sup>

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<sup>19</sup> Etannibi Alemika and Innocent Chukwuma, "Analysis of Police and Policing in Nigeria: A desk study on the role of policing as a barrier to change or driver of change in Nigeria," prepared for the Department for International Development, 2004.

<sup>20</sup> See for example, "Nigeria's ex-police chief charged with 100 million dollar swindle," Agence France-Presse, April 4, 2005.

<sup>21</sup> Kole Settima and Innocent Chukwuma, "Crime and Human Rights in Nigeria," paper presented at The International Council on Human Rights Policy, Crime, Public Order and Human Rights Project Review Seminar, Carnegie Council on Ethics and International Affairs, New York, October 21-22, 2002.

<sup>22</sup> The police crime statistics can be found at [www.cleen.org](http://www.cleen.org). The absence of reliable and independent crime statistics has made it difficult to quantify or analyze crime trends in Nigeria. Official crime statistics, which have only recently been recorded, are unreliable because they present only those crimes officially reported to the authorities and records may be manipulated to satisfy political interests.

<sup>23</sup> The Nigerian NGO, the CLEEN Foundation, in collaboration with the Federal Office of Statistics, has recently undertaken one of the first crime and victim surveys in Nigeria. "Criminal Victimization and Fear of Crime in Lagos State: A report of the Lagos Crime Victimization Survey, 2004" can be found at [www.cleen.org](http://www.cleen.org)

<sup>24</sup> See Human Rights Watch, "The Warri Crisis: Fuelling Violence," November 2003, pp 24-26.

<sup>25</sup> Human Rights Watch, "The Warri Crisis: Fuelling Violence," November 2003, and "Rivers and Blood: Guns, Oil and Power in Nigeria's Rivers State," a Human Rights Watch briefing paper, February 2005. See also, International Alert, "Small Arms Control in Ghana, Nigeria and Senegal," March 2004.

The police have often been unable to meet the safety and security needs of local communities and are often overpowered by well-armed and often violent criminals. According to Nigerian police reform experts, the police force has insufficient well-trained manpower to adequately address policing needs. The loss of public confidence in the effectiveness of the police has resulted in the emergence of private security outfits and local vigilante groups, the most notorious of which include the Bakassi Boys in the south-eastern states, but also extends to hundreds of smaller groups across the country.<sup>26</sup>

Since 1999 numerous special police units have been created to address the problem of rising crime. These include the Rapid Response Squad, Operation Sweep, and the Special Anti-Robbery Squad (SARS), some of which are the perpetrators of torture as documented by Human Rights Watch in this report. On his inauguration in 2002, former Inspector General of Police Tafa Balogun established a federal anti-crime task force known as “Operation Fire-for-Fire.” As part of this operation, Balogun announced in the national media and on promotional posters, that there would be “[a] massive onslaught against armed robbery, gruesome murder, assassinations and other violent crimes.”<sup>27</sup> He instructed officers “[to] conduct aggressive stop and search operations by carrying the battles to bank robbers. This would involve raiding all known and suspected black spots, flash points and other criminal hideouts.”<sup>28</sup>

In October 2002, the Inspector General of Police appeared to effectively give his officers instructions to use deadly force if police stations or barracks were attacked. According to media reports, this was in response to violent protests against police abuses at a number of stations and barracks across the country. During an address to his officers he told them, “You have the fundamental right to defend your barracks. Any mob that attacks the barracks should be shot.” He went on to imply that they would be immune to prosecution for anyone killed in the course of a confrontation: “You have the right to defend your selves. This is my slogan. It is time for fire-for-fire. Start now to rise up to the occasion as we will praise you, not blame you.”<sup>29</sup> Local and international

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<sup>26</sup> The Bakassi Boys were formed by traders in the south-eastern market towns of Onitsha in Anambra State and Aba in Abia State in 1998 to combat armed robbery. At their height in 2001-2002, the Bakassi Boys were also active in Imo State and carried out vigilante activities with the support and encouragement of state governments. The Bakassi Boys have been responsible for widespread human rights abuses including extra-judicial killings, torture and arbitrary detention. Due to public condemnation of their methods, the federal government took steps to disband the group in 2002. For further information on the Bakassi Boys, see Human Rights Watch/CLEEN report, “The Bakassi Boys: The Legitimization of Murder and Torture,” May 2002.

<sup>27</sup> Nigerian Police Force promotional poster detailing Tafa Balogun’s Eight Point Strategy for crime control and “IG to Reposition Police,” *Vanguard*, April 16, 2002.

<sup>28</sup> “IG Gives Fresh Directives on Fire for Fire,” *This Day*, April 17, 2002.

<sup>29</sup> “IG to Policemen: Shoot Arsonists at Sight,” *This Day*, October 18, 2002, and “Nigerian police boss orders protestors shot on sight,” Agence France-Presse, October 18, 2002.

observers note that not only has this confrontational response failed to significantly reduce incidents of violent crime, but the Nigerian Police Force is often accused of the disproportionate use of force in their fight against criminal activity.<sup>30</sup>

The force headquarters regularly publish statistics detailing the number of armed robbery suspects arrested or killed in confrontations with the police. For example, in March 2005, the Acting Inspector General of Police announced that twenty-two “armed robbers” were killed during gun battles with the police in February and March 2005.<sup>31</sup> However, there appears to be a large discrepancy between the total number of weapons recovered and the total number of armed robbery suspects arrested or killed. While it is not implausible that some of these may have been lost or stolen, the discrepancy is so great it raises troubling questions that force may have been used disproportionately. When Human Rights Watch met the former Inspector General in 2004, he presented a chart detailing crime statistics which revealed that in 2003 the police killed 3,100 “armed robbers” in gun battles, arrested 8,300 armed robbery suspects, and recovered a total of 3,451 fire arms. The statistics also show that the ratio between the number of suspects arrested and the number killed is extremely low and appears to be diminishing year by year. In 2000 there were approximately five arrests for one killing. In 2003 this ratio had dropped to just three arrests for each killing. The chart is reproduced on the opposite page:

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<sup>30</sup> “Human Rights Group criticizes Fire-for-Fire,” *Daily Trust*, April, 2002, “Student shootings spark concern over Nigerian police tactics”, Agence France-Presse, June 24, 2002, and U.S. Department of State, Nigeria Country Report on Human Rights Practices in 2002, 2003 and 2004.

<sup>31</sup> “Nigeria cracks down on banditry,” Xinhua news agency, March 31, 2005.

	2000	2001	2002	2003	Jan-March 2004
<b>Armed robbery suspects arrested</b>	4,341	5,252	7,048	8,300	476
<b>Armed robbers killed in combat</b>	834	821	2,021	3,100	422
<b>Fire arms recovered</b>	928	1,013	3,150	3,451	300
<b>Ammunition recovered</b>	12,321	13,452	21,086	30,653	8,308
<b>Stolen vehicles recovered</b>	579	603	953	1,220	175
<b>Policemen killed in operation</b>	33	23	172	58	28

Table 1: "Crime Statistics from 200-February 2004," chart presented to Human Right Watch by Inspector General of Police, Abuja, July 2004.

The term "armed robber" has become part of the national lexicon and is frequently used by Nigerians to refer to any person suspected of any form of criminal activity, regardless of whether they were carrying a weapon. For those individuals labeled "armed robbers" there is often an automatic presumption of guilt, which, according to those interviewed by Human Rights Watch, served as a justification for unlawful detention, torture and killing. The U.N. Special Rapporteur on extrajudicial summary or arbitrary executions commented during a visit to Nigeria in July 2005, "While I do not for a moment underestimate the scourge of armed robbery which plagues too much of Nigeria, there is no doubt in my mind that the label of armed robbers is very often used to justify the jailing of innocent individuals who have come to the attention of the police for reasons ranging from a refusal to pay a bribe to inconveniencing or insulting the police or some general offence against public order."<sup>32</sup>

Once arrested, armed robbery and other criminal suspects are frequently paraded before journalists in order to illustrate the success of anti-crime operations, thus appearing to

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<sup>32</sup> "Press Statement, by Professor Philip Alston, Special Rapporteur of the United Nations Commission on Human Rights on extrajudicial, summary or arbitrary executions," Abuja, 8 July 2005.

label them guilty prior to a trial before a court. For example, at a Lagos press conference in October 2002, the state commissioner of police paraded ninety-three suspects accused of armed robbery, and announced this as “the fruits of the efforts of Operation Fire-for-Fire to fight crime and check criminals.”<sup>33</sup> In October 2004, the local media reported that fourteen crime suspects were paraded before journalists at the federal capital territory police command in Abuja.<sup>34</sup>

This has, on numerous occasions, also extended to the public display of the dead bodies of “armed robbers” at police press conferences. For example, in August 2004 a national newspaper reported that the Bauchi State police command had shot dead thirteen suspected armed robbers as part of a renewed anti-crime campaign. The paper described how the corpses of eight suspects were paraded at a press conference at the state police headquarters as evidence of the police authorities’ “war against armed robbers.”<sup>35</sup>

The police have been instructed with orders to use lethal force while maintaining law and order at public demonstrations and during inter-communal conflict, which has on several occasions led to the disproportionate use of force against unarmed demonstrators. For example, during nationwide protests against an increase in the price of fuel in July 2003, large numbers of police were deployed to the streets of Lagos and other major towns and cities. According to a witness to a telephone conversation between a senior federal police official in Abuja and the Commissioner of Police for Lagos State, the authorization to shoot protestors on sight was given from the police headquarters.<sup>36</sup> As policemen violently broke up demonstrations using tear gas and live bullets at least twelve and possibly more than twenty people were killed.<sup>37</sup> Similarly, during large scale rioting between Christians and Muslims in Kano in May 2004, dozens of people were killed by police and the military which had been publicly given orders to shoot on sight to quell the violence.<sup>38</sup>

### ***Structure and Organization of the Nigerian Police Force***

The Nigerian Police Force is a centralized and federally administered institution. It is headed by an Inspector General of Police appointed by and accountable to the

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<sup>33</sup> “Police Kill 25 Robbers, Arrest 93,” *This Day*, October 25, 2002.

<sup>34</sup> “Police Kill Three, Parade 14 Crime Suspects,” *P.M. News*, October 7, 2004.

<sup>35</sup> See for example, “Police Kill 13 Bandits in Bauchi,” *This Day*, August 14, 2004.

<sup>36</sup> Human Rights Watch interview, Abuja, July 20, 2003.

<sup>37</sup> For further details of the police response during the July 2003 demonstrations see Human Rights Watch report, “Renewed Crackdown on Freedom of Expression”, December 2003, pp 7-13.

<sup>38</sup> Human Rights Watch, “Revenge in the Name of Religion: The cycle of violence in Plateau and Kano States,” May 2005, and “Shoot-on-sight order in Kano as death toll hits 30,” *Vanguard*, May 13, 2004.

President. The constitution vests the overall operational control of the force in the hands of the President. Section 215 (3) states: “The President or such other Minister of the Government of the Federation as he may authorize in that behalf may give to the Inspector-General of Police such lawful directions with respect to the maintenance and securing of public safety and public order as he may consider necessary, and the Inspector-General of Police shall comply with those direction or cause them to be compiled with.”<sup>39</sup> This is further codified in the Police Act which states: “The President shall be charged with operational control of the Force” and that “the Inspector-General shall be charged with the command of the force subject to the directive of the President.”<sup>40</sup>

A system of patronage, where individuals are favored by the government in return for their support, appears to extend to the middle ranks and has led to accusations that the police function as a tool of the ruling party. There are numerous examples of this documented by Human Rights Watch including the use of the police to harass journalists, protestors, and members of groups opposing government policies.<sup>41</sup> In addition, during Human Rights Watch research on political violence around the 2003 elections, it was widely alleged by human rights groups that the police were given orders by the ruling People’s Democratic Party (PDP) at the highest level to turn a blind eye to incidents of fraud and electoral malpractice in their favor. In Anambra State, where there has been serious political infighting within the PDP since 2003, a detachment of police was involved in the attempted abduction of the state governor in July 2003.<sup>42</sup>

Each of the thirty-six states and the federal capital territory is served by a unit called a command, under a state commissioner of police. Three or four state commands are grouped together to form one of twelve zones, each under an Assistant Inspector General. State commands are divided into smaller area commands, below which are divisional police stations, headed by a Divisional Police Officer (DPO) and finally local police posts.<sup>43</sup> The force size currently stands at approximately 325,000 officers. With an overall population of roughly 130 million people, this is a ratio of one officer to every 400 Nigerians. This compares with similar ratios in South Africa and the United Kingdom.<sup>44</sup>

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<sup>39</sup> Constitution of the Federal Republic of Nigeria, 1999, section, 215 (3).

<sup>40</sup> Police Act, 1990, Section 9(4) and (5).

<sup>41</sup> See Human Rights Watch, “Renewed Crackdown on Freedom of Expression,” December 2003.

<sup>42</sup> See for example, “Anambra: Police Commission to Review Officers’ Conduct,” *This Day*, November 29, 2004, and “Anambra: Police Commission to Review Officers’ Conduct,” *Vanguard*, November 19, 2004.

<sup>43</sup> For further information see [www.nigeriapolice.org](http://www.nigeriapolice.org)

<sup>44</sup> In South African the police/population ratio is 1: 404 and in the UK 1: 412. Information taken from [www.saps.gov.za](http://www.saps.gov.za) and [www.centrex.police.uk](http://www.centrex.police.uk)

As a federal institution, the Nigerian Police Force recruits officers from across the country. New recruits are posted to any one of the thirty-six state commands. Under a strict system of rotation officers are transferred to a new post every few years and therefore communities are policed by officers who may be from different ethnic or religious backgrounds to their own.

Serving alongside the regular police force are the Mobile Police, an especially trained anti-riot unit, numbering approximately 30,000 officers. Known locally as MOPOL, they were originally created to contain civil disturbance or large-scale conflict but today are also deployed to carry out various other policing duties. The Mobile Police operate under a parallel authority structure with forty-six squadrons, organized into state and zonal commands and headed by a commissioner of police at the force headquarters.

Several other national agencies carry out law enforcement functions and have the power to arrest and detain suspects, some at their own detention facilities. These include the National Drug Law Enforcement Agency (NDLEA), the Customs and Immigration Service and the Economic and Financial Crimes Commission (EFCC), a body established in 2002 to investigate a range of financial crimes such as money transfer fraud and money laundering. In addition, there are two principal intelligence agencies: the State Security Service (SSS) and the Directorate of Military Intelligence (DMI), dealing with criminal matters affecting the security of the state.

## **V. Deaths in Police Custody**

During the course of this research Human Rights Watch gathered information on the death of at least twenty-three men in police custody. Twelve of these cases are from Kano and took place between November 2003 and early 2005. Three took place in Lagos in February 2005 and eight in Enugu between March 2002 and May 2005. In addition, reports from local human rights organizations and the press indicate there are scores of others cases, suggesting a widespread pattern of deaths in custody across the country.

At the Kano State police headquarters alone, four men held at the criminal investigation department, known as “State CID,” for periods of up to twenty-three months told Human Rights Watch they had saw or heard of the death of between twenty and forty people during their detention. Those who died from their injuries or were summarily executed included the following eleven men whose names and approximate ages they gave as follows: Awolo, twenty-nine-years-old, Idris, thirty-seven years, Charles, forty

years, Obita, thirty-one years, Yusuf, twenty-two years, Arangama, thirty years, Yakubu, thirty years, Ibrahim, twenty-seven years, Augustine, Julius, and Emeka.<sup>45</sup>

The following account of torture and death in custody of two detainees at the Kano State police command was given to Human Rights Watch by a thirty-six-year-old trader. He was arrested along with twenty-one-year-old Ahmadu, thirty-year-old Ishaq and twenty-seven-year-old Abubakar<sup>46</sup> in November 2003 at a police checkpoint in Kano:

At State CID they didn't take our names but took us immediately to one dark room, about ten-by-ten-meters in size. There were about seven policemen. [Sergeant A], [Sergeant B] and [Corporal C]<sup>47</sup> were carrying sticks. Four others were sitting down. Our arms were tied with handcuffs. One at a time we were hung by a chain from the ceiling fan hook. I was the first. They started beating me with a yam pounder,<sup>48</sup> saying I should confess for the robbery. I didn't know what they were talking about. I was beaten, beaten, beaten. They beat my knees, the soles of my feet, my back and my joints. This went on for twenty-five minutes. I was beaten too much. I shit and piss while I was hanging. Then I became unconscious. They brought me down and poured water over my head. I woke up and saw Ishaq hanging. He was shouting. They beat him the same as me, so that he shit and he piss. They beat him so he accepted what he didn't do. He accepted he was a robber. Then they did the same to Abubakar. They beat him more than Ishaq - for over thirty-five minutes. The whole place was scattered with blood. He was shouting, shouting. He also shit and piss himself. He wouldn't agree to the robbery.

Next they started taking statements. All seven policemen were present. [Sergeant A] took my statement. I told them I robbed, even though I did not. [Sergeant A] pointed a gun and forced me to sign the statement. [Sergeant B] took a statement from Ishaq and [Corporal C] from Abubakar.

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<sup>45</sup> Human Rights Watch interview, Kano, March 12, 2005.

<sup>46</sup> The names have been changed to protect the identity of the victims and witnesses.

<sup>47</sup> The names of the police officers have been withheld for the security of the witness.

<sup>48</sup> Large wooden pestle used to pound yam and other foodstuffs. They vary in size but can be up to one meter long and over one kilo in weight.

Then we were taken to the cell. We were thirty-six people in a very small cell. It was so congested. We were packed like sardines. There was no ventilation, no window and just a tiny toilet. We had to eat and piss in that room. I had wounds on my back and my face. My body was seriously paining me. I couldn't stand and had to crawl to go to the toilet. My left knee and foot had swollen, my arms were swollen. I didn't get any medicine. When I complained about my injuries they said let me die.

After three days they took us to the same room and beat us again. They told us we went to rob one Alhaji. We said no, we did not. They were annoyed that we said no. [Sergeant A] was carrying a big iron bar and he started beating me with it. I accepted I had robbed. Ishaq said he would not accept, so they beat him until he was unconscious. He did the same with Abubakar. [Sergeant A] beat him in the stomach and broke his right arm and his left leg. [Sergeant A's] nickname is Angel.

He told me to drag Abubakar back to the cell. He was bleeding from his nose and mouth, his whole face was swollen. With the help of the chairman [head of the prisoners], I dragged Abubakar back to the cell.

Ishaq died after two months. Abubakar died after three or four months in custody. He died from the beating. They broke his kidney. He got no medical attention, not even panadol. He couldn't sleep or eat.

The police took the corpse to the general hospital. Ishaq's wife came twice to look for him. I wanted to tell her what had happened. [Sergeant A] said if I tell her he will kill me. They told his wife he had been transferred to Abuja. At first, when our families came to look for us, they drove them all away. It was not possible to see visitors. Abubakar's family are in Lagos. In February 2004, his senior brother came to look for him. He gave the police 10,000 naira [approximately US\$ 77] to see his brother. When he saw what state he was in he started crying. He couldn't come back again.<sup>49</sup>

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<sup>49</sup> Human Rights Watch interview, Kano, March 2005.

A police officer, who used to work at the police headquarters in Kano until 2003, told Human Rights Watch he had seen suspects being shot in the leg or beaten with wooden sticks and metal rods. He told researchers: “There are many cases at State Criminal Investigation Department (CID) [at the police headquarters in Kano] where the police intentionally shoot people. They are shooting roughly one person per week.”<sup>50</sup>

Another man, held at Kano State police headquarters between February and March 2005, witnessed the death of a co-detainee. He told Human Rights Watch: “One person was taken from the cell. His name was Nairu Gewa.” When he returned to the cell the man saw Nairu Gewa had been shot in both legs, “He was shot in both legs. I personally treated his wounds, but he was urinating blood and later died in the cell.”<sup>51</sup>

Several other people who had been detained at the Kano State police command described to Human Rights Watch how they or co-detainees were beaten by two sergeants, one corporal and other policemen attached to the Special Anti-Robbery Squad (SARS), all of whom were identified to Human Rights Watch researchers by name. To Human Rights Watch’s knowledge, these officers are still working at the Kano State police command.

When Human Rights Watch raised the issue of deaths in custody with the Kano State police command, the police spokesperson said: “We would not allow a suspect to die in custody. We are cautious and careful with our job. It is very difficult to die in police custody. If they are sick they are taken to hospital. Brutality is no longer used as a method of interrogation. It is no longer relevant.”<sup>52</sup>

In Lagos, Human Rights Watch spoke to a man who had knowledge of at least three summary executions which took place at Area G Command in the Ogba area of the city in February 2005. He gave the following detailed account of one of these incidents and explained why he believed summary execution of detainees was a regular occurrence:

At Area G Command in Ogba they regularly kill suspects. I have seen it from a friend’s office which overlooks the police yard. It is usually between 10:00am -12:00p.m., during the rush hour. On three different occasions I saw people being shot.

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<sup>50</sup> Human Rights Watch interview, Kano, March 2005.

<sup>51</sup> Ibid.

<sup>52</sup> Human Rights Watch interview with Baba Mohammed, Police Public Relations Officer, Kano state police, March 14, 2005.

It was this year [2005], between January 7 and 12, at 10:00 or 11:00 a.m. I was standing at the top of the building and I could see a MOPOL policeman interrogating a detainee. The detainee looked disheveled, with a ripped shirt and torn trousers. He looked very feeble, like he had lost all his strength. From where I was, I would say he was between thirty-four and forty-years-old, dark in complexion and about 5 ½ feet tall. He was handcuffed and had manacles on his legs.

He was taken to the back of the yard. I couldn't hear the exact exchange of words, but I could see from the policeman's gesticulation that he was interrogating the man. The detainee was pleading. The next thing the policeman picked up a rifle and aimed it at him. He was still talking and threatening the man. After between five and seven minutes he aimed the gun again and shot him three times at close range, about four or five meters away. He first aimed at his chest and then the last bullet hit him in the stomach. The police officer just left him and walked out. It was as if someone had killed a lizard. I also walked away, as I couldn't watch any more.

The second occasion was the second Thursday in February, between 12:00 and 12.30p.m. I was walking from a meeting. I didn't see but heard three gunshots just as I was walking past the police station. Three policemen who were outside shouted: "rest in pieces," and "muscle up" – a euphemism for "he is dead and gone".

[...]Also, one time last year my cousin [...] was taken to FESTAC police station. He called me to come and bail him. [...] As we went to leave an officer said "gentlemen stop, wait" and we were locked inside the station. We didn't know why. After five minutes we heard seven gunshots coming from the back of the yard. The police staff at the counter all echoed "rest in pieces, rest in pieces," one for each gunshot. This is where I first heard the phrase and why I knew what it meant when I heard it at Ogba. After a couple of minutes they opened the gates.<sup>53</sup>

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<sup>53</sup> Human Rights Watch interview, Lagos, March 8, 2005.

The man was adamant that from the office building he could clearly see what was taking place in the police yard. He also told Human Rights Watch that after “rest in pieces,” the police officers shouted: “Oh, they are gone,” “they have bid us goodbye,” and “they have gone on errand.” He explained that the use of these terms is openly acknowledged by police officers in Nigeria. During discussions with police personnel on a separate occasion, he was explicitly told these phrases are used to signify a suspect has been shot in police custody.<sup>54</sup> In addition to the incidents described above, the man’s friend reported a third case of summary execution and told him such incidents occur up to three times a week.<sup>55</sup>

One of the most notorious cases to reach public attention in recent years was the killing of two school boys in Nsukka, Enugu State. On March 10, 2002, sixteen-year-old Nnaemeka Ugwuoke and seventeen-year-old Izuchukwu Ayogu were running an errand in their home town of Nsukka. They were stopped by three men who attempted to force them into a car. When they tried to run away they were chased, beaten, and arrested by the officers before being handed over to the Divisional Police Officer (DPO) for Nsukka, a police superintendent, who drove them to the police station.<sup>56</sup> When their parents went to the police station they were told there was no offense recorded against the boys, but they were refused bail on the explicit instruction of the DPO. On their return the following day they found their sons no longer there. All the policemen, including the DPO, denied having ever seen them. Several days later, the mutilated bodies of Nnaemeka and Izuchukwu were found dumped at a construction site in Nkpologwu, a nearby town.<sup>57</sup>

Following protests from the Nsukka community, the Enugu State police command opened an inquiry into the death of Nnaemeka and Izuchukwu. The findings which were released in April 2002 indicted the DPO for their murder. The report revealed how, when junior officers disobeyed the DPO’s orders to shoot the boys, he took the gun and shot them himself. The report states: “That there is a strong evidence to believe that the boys were actually arrested by the DPO, put in the boot [trunk] of his car and brought to the station for detention. That there was no entry of crime committed by the two boys in the station’s crime diary. That the entry of their detention in prisoner’s property lock-

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<sup>54</sup> Human Rights Watch telephone interview, June 27, 2005.

<sup>55</sup> Human Rights Watch interview, Lagos, March 8, 2005.

<sup>56</sup> Enugu State police command report entitled, “Detailed Police Investigation Report re. case of suspected murder. Complaints: 1. Chief Nicholas Ugwoke 2. Chief Reuben Ayogu. Suspects: 1. Mr. Gambo Sarki (SP) and others. Deceased: 1. Nnaemeka Ugwoke (m) 2. Izuchukwu Ayogu (m).”

<sup>57</sup> Civil Liberties Organization, “Human Rights Call - The Nsukka Killings: Time for Justice,” September 1, 2003 and Human Rights Watch email correspondence with Nigerian NGO representatives June, 24 2003 and February 24, 2004.

up register kept at the counter was tampered with [...]. That the two boys were actually shot at Isi-Uja by Mr. Gambo Sarki through the gun he collected from Insp. John Ugwuof Anti-Crime Patrol team (pick-up van).”<sup>58</sup> It recommended that the DPO and several other officers face prosecution, concluding: “After exhaustive discreet investigation, it becomes clear that it is a premeditated action on the part of the officer, Gambo Sarki (SP), therefore it is obvious that a clear case of murder of Nnaemeka Ugwuoke and Izuchukwu Ayogu was firmly established against Supol. Gambo Sarki (SP). It is therefore recommended that he be charged to court as such, while the indicted policemen should face severe disciplinary action.”<sup>59</sup>

On receiving the report the then Inspector General of Police ordered the case file and the DPO to be transferred to Abuja. Over three years later, the case has still not been brought to trial and no one prosecuted for the murder. Indeed, there are conflicting reports about the whereabouts of the DPO. The parents and local human rights organizations said the police have given conflicting information, first claiming the DPO had escaped from detention and then claiming he remained in custody and that they were still conducting an investigation. At the time of writing the DPO’s whereabouts remain unknown.<sup>60</sup>

The May 2005 death in custody of six young men, also in Enugu, appears to be yet another example of extrajudicial killing and total disregard for fundamental principles of due process in the name of an anti-crime strategy. According to information from local human rights organizations and reports in the media, Murphy Opara, Emeka Madubosa, Uchenna Asogwa, Ikechukwu Asogwa, Chimezie Ugwu and Kelechi Chukwu were arrested from various locations in Port Harcourt, Nsukka, and Lagos between March and April 2005 in connection with a bank robbery that took place in Enugu. The six friends were transferred to the Ogui Area Command in Enugu. Although they had not been convicted of the robbery, on April 27, 2005, they were paraded before journalists at the State CID in Enugu, as a public display of the anti-crime measures being employed by the police.<sup>61</sup> Article 45(1) of the U.N. Standard Minimum Rules for the Treatment of Prisoners provides: “When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.”

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<sup>58</sup> Enugu State police command report entitled, “Detailed Police Investigation Report re. case of suspected murder. Complaints: 1. Chief Nicholas Ugwoke 2. Chief Reuben Ayogu. Suspects: 1. Mr. Gambo Sarki (SP) and others. Deceased: 1. Nnaemeka Ugwoke (m) 2. Izuchukwu Ayogu (m).”

<sup>59</sup> Ibid.

<sup>60</sup> See also, “Nsukka Killings - Recurring Cry for Justice,” *Vanguard*, August 6, 2003 and “Justice Delayed”, *The News*, March 22, 2004.

<sup>61</sup> “Millionaire Robbers: Police Smash gang which stole N28m from bank,” *The Sun*, May 12, 2005.

Despite repeated efforts, the families were not permitted access to their children who were, according to a local NGO, denied legal representation. On May 9, 2005 family members brought food for the young men, but were told they had been transferred to the state police headquarters in Enugu earlier that day. When they made inquiries at the police headquarters officers denied the suspects had been brought there. Days later their dead bodies were found at the University of Nigeria Teaching Hospital mortuary in Enugu. According to local human rights organizations the police have offered no official response to the families.<sup>62</sup>

A member of staff from a large Nigerian hospital told Human Rights Watch: “In the course of one week the police come frequently to deliver bodies, say four or five times. We get four or five bodies from them per week.”<sup>63</sup> He said the explanations of death offered by the police when they bring corpses to the mortuary are not consistent with the types of injuries he observed. This led him to conclude that the majority of the corpses brought to the hospital are of those who had been killed in custody. The source described how the police claim the person died of an illness or that the body was found on the road. However, according to the source, the same corpses were observed by him to have signs of extensive bruising and evidence of whipping.<sup>64</sup>

## **VI. Torture and Cruel, Inhuman or Degrading Treatment or Punishment**

The Nigerian Constitution guarantees the right to life and the right to respect for dignity of the person including the right not to be subjected to torture.<sup>65</sup> International conventions ratified by Nigeria, including the International Covenant on Civil and Political Rights, the United Nations (U.N.) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the African Charter on Human and People’s Rights, also prohibit the use of torture.<sup>66</sup>

Torture, as defined in the U.N. Convention, involves a number of key elements. It is an act by which severe mental or physical pain or suffering is intentionally inflicted against

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<sup>62</sup> Human Rights Watch email correspondence, May 6, 2005 and telephone conversation May 13, 2005.

<sup>63</sup> Human Rights Watch interview, March 2005.

<sup>64</sup> Ibid.

<sup>65</sup> Constitution of the Federal Republic of Nigeria, 1999, Chapter IV, sections 33, 34, 35.

<sup>66</sup> International Covenant on Civil and Political Rights (ICCPR), to which Nigeria has been a state party since 1993, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Nigeria ratified on June 28, 2001, and the African Charter on Human and People’s Rights, ratified by Nigeria in 1983.

an individual, at the instigation of or with the consent or acquiescence of a public official. The purpose of which is to obtain information, or a confession, or punishment for an act the individual has committed or is suspected of having committed, or intimidation, coercion, or discrimination of any kind. A person may be tortured as punishment for an act committed, or suspected of being committed, by a third person.<sup>67</sup>

Despite these commitments and obligations by the Government of Nigeria, Human Rights Watch's research shows a clear pattern of widespread torture of suspects in police custody, sometimes resulting in the victim's death. The experiences of current and former detainees in Enugu, Lagos and Kano, and information from local human rights groups, suggested that the use of torture by the police was routine. During interviews with Human Rights Watch, local NGOs, lawyers and prison officials report little improvement in the treatment of criminal suspects by the police or the reduction of torture since the end of military rule in 1999. Indeed, thirty-six of the fifty people interviewed by Human Rights Watch said they had been tortured in 2004 or 2005. Those interviewed represented urban areas, which, due to high crime rates, have a higher proportion of criminal cases, as well as remote rural areas where poor infrastructure and communication mean the activities of police go largely without scrutiny by local human rights groups.

Human Rights Watch interviewed a twenty-three-year-old construction worker who was awaiting trial in Enugu Prison. He was arrested by police from his home at Agbani, a town in Enugu State, on June 18, 2004 with three male cousins, aged nineteen, twenty-one, and twenty-two. All four were accused of a robbery in the town and taken to Agbani police station. He described what happened:

At the police station we were put in an open cell with over twenty people. Our hands and legs were chained. We slept in the cell, on the floor. In the morning at 11.30 a.m they came to take me first. They took me to the "torture room." It was a small room. They asked me to tell the truth, that I was a robber. I said I'm not a robber so they started to torture me. They handcuffed me and tied me with my hands by my knees, a wooden rod behind my knees and hung me from hooks on the wall, like goal posts. Then they started beating me. They got a broomstick hair [bristle] and inserted it into my penis until there was blood coming out. Then they put tear gas powder in a cloth and tied it

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<sup>67</sup> U.N. Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1.

round my eyes. They said they were going to shoot me unless I admitted I was the robber. This went on for four hours. There were three policemen there, all in mufti [plainclothes]. There was an inspector, a sergeant and a constable. The inspector was giving all the orders. After the torture I wrote and signed a statement in which I said I was not a robber. [...] My cousins were tortured after me, in the same way, including the broom hair in the penis.

At about 3.00 p.m they took me to State CID [criminal investigation department] Enugu. The Inspector from Abgani [police station] handed me over with my statement. There they took my name and asked if I was a robber, that I should tell the truth. They handcuffed me and made me lie on the ground and hit my back with a cutlass and a baton. I kept saying it is not me, I'm not a robber. I spent two weeks in State CID. On August 2, 2004, I was taken to Abgani Magistrates Court No. 2. My cousins and I were charged with suspected robbery.<sup>68</sup>

When Human Rights Watch met the young man in March 2005, he complained of continuing pain in his genitals, and described how he was passing blood for two weeks after the torture. He also told researchers that he had temporarily lost sight for two weeks after as a result of the tear gas. During his detention in police custody he received no medical attention.

Human Rights Watch heard reports of severe beatings with implements such as batons, sticks, planks of wood, belts, iron bars, gun butts, cable wire, *koboko* (horsewhip) and *gora* (poles of bamboo palm used as roofing material). Many of the cases documented rise to the level of torture, in that they involved the intentional infliction of severe pain or suffering for the purpose of obtaining a confession or extracting information, or punishing the victim for his or her own or a relative's perceived wrongdoing. Other cases did not clearly amount to torture but all of the cases documented in this section at a minimum constitute cruel, inhuman, and degrading treatment or punishment, which is also prohibited in the U.N. Convention Against Torture.<sup>69</sup>

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<sup>68</sup> Human Rights Watch interview, Enugu Prison, March 4, 2005.

<sup>69</sup> U.N. Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 16.

## ***Types of Torture or Cruel, Inhuman, and Degrading Treatment***

The most common types of abuse committed by the police in Nigeria and described to Human Rights Watch by victims and perpetrators includes repeated and severe beatings with metal rods and wooden sticks or planks, as well as other implements described above. Other violations reported include the tying of arms and legs tight behind the body; suspension by hands and legs from the ceiling or a pole; resting concrete blocks on the arms and back while suspended; spraying of tear gas in the face and eyes; electric shocks; death threats, including holding a gun to the victims head; shooting in the foot or leg; stoning; burning with clothes irons or cigarettes; slapping and kicking with hands and boots; abusive language or threats; and denial of food and water.

There were also numerous cases of the molestation and rape of female detainees; use of pliers or electric shocks on the penis; insertion of broom bristles into the penis; beating the penis with cable wire; and spraying of tear gas on genitals

Human Rights Watch documented twelve cases where young men had been shot in the foot or leg whilst in police custody. Eight of these cases took place in Lagos, seven of which were perpetrated by officers at the state police command. Four other cases were recorded in Kano, at the state police headquarters. The majority occurred in 2004. Some of the victims were shot multiple times in each foot. All were denied medical attention. A twenty-two-year-old bus driver from Lagos was arrested on January 15, 2005 along with two men who were alleged to be in possession of guns. During his detention at Alagbon police station he was shot four times in his feet. He described what happened:

We slept over night in the cell. We were ninety-five men in total. The next morning we were taken into the main police station building. All three of us were interviewed by two policemen. The policemen's names were Laide and Niyi. I don't know their rank as they were in mufti [plainclothes]. They asked me how I knew the other two. I explained that David was my friend but I didn't know Chima .<sup>70</sup> They thought I was lying and said that I owned a gun too and was a robber. Then they hung David from the ceiling. He had his hands cuffed behind his back a second set of handcuffs were used to tie him to a hook in the ceiling. They removed the chair from his feet and suspended him, so his arms were drawn up. I could see this hurt as he screamed. Laide and Niyi beat him many times with a big wooden stick. It went on for between fifteen and thirty minutes. About ten other officers were watching. After they

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<sup>70</sup> The names of the individuals have been changed to protect their identity.

finished with David they took Chima and did the same. During the beating they asked David and Chima where they got the guns from. They confessed to being the owners of the guns.

They took me to one corridor, still inside the compound. I was handcuffed from behind. Officer Laide fired two shots in my right foot. They beat me on the leg with a stick. They said I should sit down and then another officer, Bamjuku, shot me again in the left foot. It was at close range with a short gun, but not a pistol. The bullets went right through. Blood was rushing seriously but they beat me again on my feet. I was taken to one building upstairs and they beat me again. They took me to the cell and left me there.

On the second day at 4.00p.m, I was taken out of the cell. Bamjuku asked me the same questions about how I knew the other two and if I had a gun, and shot me again. There was lots of blood. After this, I just said that I did own a gun and that it was hidden in my garbage bin. The police wrote a statement and made me sign it. On third day they beat me on my joints with a stick. I was not beaten again. I didn't get food for these first three days.<sup>71</sup>

When Human Rights Watch researchers visited Ikoyi prison in Lagos they met a group of approximately fifteen young men, all of whom had gunshot wounds in one or both feet, which they said were the result of police shooting whilst they were in detention. Human Rights Watch was able to interview four of these men in detail about their treatment.

### ***Who is Targeted***

Ordinary criminal suspects who have been detained and accused of crimes ranging from petty theft to armed robbery and murder are those most vulnerable to torture and death in custody, according to local human rights organizations, lawyers and members of the judiciary. Forty-one people, the majority of those interviewed by Human Rights Watch, fell into this group. Human Rights Watch is not in a position to judge whether these individuals were guilty of the crimes alleged; however, a number of factors give cause for concern.

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<sup>71</sup> Human Rights Watch interview, Lagos, March 10, 2005.

The powers to arrest without a warrant that are granted in the laws of criminal procedure and the Police Act are frequently abused by the police. The Police Act confers the power to arrest without a warrant to “any person whom he finds committing any felony, misdemeanor or simple offence or whom he reasonably suspects of having committed or of being about to commit any felony, misdemeanor or breach of the peace.” It also grants authority to arrest without a warrant “any person whom any other person charges with having committed a felony or misdemeanor” or “any person who any other person suspects of having committed a felony or misdemeanor or charges with having committed a simple offence, if such other person is willing to accompany the police officer to the police station and to enter into a recognizance to prosecute such charge.”<sup>72</sup> In addition to arresting those they believe are about to commit a crime, the police routinely interpret the law in such a way that many people are arrested as a result of unverified tip-offs.

Human Rights Watch and other local and international organizations have over many years received reports of arbitrary and indiscriminate arrests by the police in Nigeria. Numerous victims told Human Rights Watch how the police failed to inform them of the reasons for their arrest or were unable to produce evidence against them – both fundamental rights of the accused person. Others described how they were randomly arrested at checkpoints or during anti-crime patrols, either because they happened to be in the wrong place at the wrong time or on the basis of what they believed to be, or were told were, unverified tip-offs.

Nearly all of the victims interviewed by Human Rights Watch were men and women from low socio-economic backgrounds with little or no education, typically employed as market traders, laborers and drivers. Young men between eighteen and thirty-five years of age constituted the majority of cases. However, women, children and the elderly have also been victims of torture and cruel, inhuman and degrading treatment. Of those Human Rights Watch interviewed three were men between fifty-nine and sixty years of age, five were women and two children under eighteen years.<sup>73</sup>

For example, a sixteen-year-old boy from Ikani, Enugu State was arrested by police in November 2004, after assaulting his father. The boy was kept handcuffed in Agbani police station for ten days during which time he was beaten with a horsewhip and had

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<sup>72</sup> Police Act, 1990, section 24.

<sup>73</sup> In this report, the word “child” refers to anyone under the age of eighteen. The U.N. Convention on the Rights of the Child states: “For the purposes of the present convention, a child is every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” Convention on the Rights of the Child, Article 1, adopted November 20, 1989 (entered into force September 2, 1990).

tear gas poured in his eyes as punishment. On December 6, 2004, he was arraigned before Agbani Magistrates Court, charged with assault and remanded to prison. Three months later, when Human Rights Watch researchers interviewed the boy in Enugu Prison, he was still awaiting a trial date.<sup>74</sup> A seventeen-year-old girl, whose case is described on page 47, was gang raped five times by policemen in Enugu in September 2004.

A thirty-one-year-old mother of two, who runs a telephone stand in Lagos, was arrested in January 2005. Accused of duping her boss over the sale of telephone charge cards, she was taken to the state police headquarters at Panti, Lagos where she was brutally beaten. When Human Rights Watch interviewed her in custody in March 2005 she bore visible signs of injury, including scarring on her left shoulder. She was unable to stand upright or walk without assistance and prison officials told researchers she had collapsed just a few days before. Her injuries were consistent with the account she described:

At the station they stripped me naked and took me to a room in D9 [*robbery department*]. I was handcuffed from behind. The Inspector slapped me with a belt and then a wooden stick. She beat all over my body and also my face. I can't count the number of times she did this. Two other male officers were present and watching [...]. Next the policemen tied a rope around my arms and body and hung me up from a hook in the ceiling. Again, the Inspector beat me with a belt, and wooden sticks and sprayed tear gas in my private parts. She said I will never have peace in my life as I am a liar. She wanted me to agree to the crime, that I duped my boss and stole the money.

The rope broke and I fell from a height and onto an iron pipe. It hit me right in the chest. I was bleeding from my ankle, my leg, my back and nose. My whole face was swollen. I couldn't walk. My chest was hurting so much from the injury when I fell on the pipe. It is still painning me. They gave me water and took me back to the cell and then I was taken to the police hospital at Panti. They treated me for three days. The second day I fainted, I was in and out of consciousness. The hospital gave me (peak) milk and food, but I couldn't eat. After three days I was taken back to the cell in the police station, where I stayed for three

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<sup>74</sup> Human Rights Watch interview, Enugu Prison, March 4, 2005.

weeks. They asked me to write a statement saying I duped my boss. I wrote it and signed.<sup>75</sup>

In another case, a sixty-year-old man lost sight in his left eye and hearing in his left ear from the multiple beatings he received. Arrested on September 9, 2004, he was taken to Dangozo police station in Kano and accused of sodomy:

Then they pulled off my clothes and two policemen beat me. [...]They beat me on the calves and knees with a baton and mortar for pounding, and slapped my face. They did this for three hours. It took place in the investigation room. I was tied with handcuffs.

They asked if I had committed homosexual acts. They told me to answer and that if I refused, they will take me to another place and hang me and beat me. I was screaming and pleading for mercy. I was really in pain and bleeding from my fingers and knees. They also poured tear gas in my eyes. I couldn't see at all. Even now I can only see in my right eye. My left eye is blind from the beating and the tear gas. I can't hear in my left ear also because of the beating.

I spent the night in the cell and the next morning they called me out. They wrote a statement and forced me to sign it. They said they would beat me if I didn't sign. I don't know what the statement said. After three days in the cell, on September 14, 2004, I was taken to Ngongo Magistrates Court, Kano. I was charged with sodomy. The prosecutor asked if I have money and then if I was guilty or not. I said yes out of fear. I was convicted for two years and brought to prison.<sup>76</sup>

### ***Arrest of Friends or Relatives of a Suspect***

Numerous victims, witnesses and local NGOs described to Human Rights Watch how police unlawfully arrested, detained and tortured friends or relatives in place of a suspect who, at the time, was unable to be located. This appeared to be aimed at bringing forward the suspect or for the purpose of extortion, a fact recently recognized by the Acting Inspector General of Police. According to national media reports, the Acting Inspector General, at a meeting with force investigative heads in February 2005,

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<sup>75</sup> Human Rights Watch interview, Kirikiri Prison, Lagos, March 9, 2005.

<sup>76</sup> Human Rights Watch interview, Gorun Dutse Prison Kano, March 14, 2005.

criticized the practice and told the officers present: “If you go to arrest a suspect and could not get him, devise a technique, such as keeping surveillance instead of arresting his maternal or paternal relations.”<sup>77</sup>

Sometimes people arrested in this way are subjected to torture or ill-treatment in police custody. A thirty-four-year-old woman, who was pregnant at the time of arrest, told Human Rights Watch how on January 31, 2005 policemen forcibly entered her house in Kano looking for her husband. When they found he was not at home, the woman was first physically assaulted by a policeman, and then taken to Yar’Akwa police station in Kano. She described to Human Rights Watch researchers how at the police station she was repeatedly beaten across the legs with a stick until they were bleeding and swollen. This appeared to be for the purpose of obtaining information about her husband’s whereabouts and also to punish her for his perceived wrongdoing. During interrogation she was asked of her husband’s whereabouts and told that he owed 140,000 naira (approximately US\$ 1,076) to another man. She was then taken to the local hospital, although not for medical treatment. Rather she was told to phone her husband and say she was in hospital in an effort to scare him into coming forward. When he did not come forward she was taken back to the police station and detained for four days. She told Human Rights Watch that during her detention, a police officer tried to rape her when she refused to sign a confessional statement.

Five days later she was charged to Gidan Murtala Magistrates Court and remanded to Kano Central Prison, where at the time of interview she was awaiting trial for criminal breach of trust. One week before Human Rights Watch researchers met her, she suffered a miscarriage, which she was convinced was a consequence of the beatings she received at the hands of the police.<sup>78</sup>

### ***Torture and Ill-Treatment of Members of Self-Determination Groups***

Other categories of detainees, such as protestors against government policies and members of self-determination groups, have sometimes been subjected to beatings or other ill-treatment in police custody. In these cases the abuse appears to be aimed at punishing them for involvement with groups which threaten or clash with the policies of the state or federal government. Over the last few years Human Rights Watch has documented human rights abuses against members of organizations advocating greater autonomy for distinct ethnic, regional or religious group, such as the Igbo organization,

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<sup>77</sup> “Nigeria’s Criminal Justice System a Failure – Ehindero,” *Vanguard*, February 3, 2005.

<sup>78</sup> Human Rights Watch interview, Kano Central Prison, March 12, 2005.

Movement for the Actualisation of the Sovereign State of Biafra (MASSOB) and the Yoruba, O'odua People's Congress (OPC).<sup>79</sup>

A February 2003 Human Rights Watch report found, for example, that hundreds of real or suspected OPC members were killed by the police and many others were arbitrarily arrested, tortured, and detained without trial for extended periods.<sup>80</sup> Similarly, a December 2003 report by Human Rights Watch found that hundreds of MASSOB members have been arrested since 1999 and that many have been detained without trial for prolonged periods.<sup>81</sup>

In addition, Human Rights Watch has documented the torture of individuals involved in public demonstrations. For example, in July 2003, a group of several hundred people under the name of Concerned Youth Alliance staged a protest outside the U.S. embassy in Abuja. They were protesting about the forthcoming visit of President George W. Bush to Nigeria, on the grounds that it conferred undeserved legitimacy on President Obasanjo's government. Despite the entirely peaceful nature of the protest, around thirty people were arrested and detained for two weeks; several male protestors were tortured, on instructions from the highest levels of the police force.<sup>82</sup>

During the course of our recent research, Human Rights Watch interviewed seven members of MASSOB, each of whom gave accounts of ill-treatment that appeared to be inflicted as a result of their membership in the organization. Since its formation in 1999, members of MASSOB, which advocates an independent state of Biafra in the predominantly Igbo south-east of Nigeria, have been harassed, arrested, detained and killed by the police.<sup>83</sup> Although there is no law proscribing MASSOB, the federal government has declared membership of the organization illegal on the grounds that they constitute a threat to the security and sovereignty of the nation.

Five of the MASSOB supporters Human Rights Watch interviewed were arrested during a clash with police on March 29, 2003. They described how the police stopped a large

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<sup>79</sup> See Human Rights Watch reports, "The O'odua People's Congress: Fighting Violence with Violence," February 2003 and, "Crackdown on Freedom of Expression," December 2003.

<sup>80</sup> Human Rights Watch, "The O'odua People's Congress: Fighting Violence with Violence," February 2003.

<sup>81</sup> Human Rights Watch, "Crackdown on Freedom of Expression," December 2003, pp 32-34.

<sup>82</sup> *Ibid.* pp 13-18.

<sup>83</sup> Human Rights Watch interviews with MASSOB members in Enugu and Lagos, March 2005. See also Human Rights Watch, "Crackdown on Freedom of Expression," December 2003. Biafra was the independent republic proclaimed in 1967 in the Igbo areas of eastern Nigeria following the end of the First Republic by two military coups in 1966. The ensuing civil war, known as the Biafran war, claimed between 500,000 and two million lives before it came to an end with a federal victory in 1970.

convoy of MASSOB members holding a rally near Okigwe, Imo State, threw tear gas canisters and then opened fire. There are conflicting reports of the number of people killed during the clash. One MASSOB member who was injured during the incident told Human Rights Watch he saw the bodies of six people who were killed in the clash. Another MASSOB member said he witnessed the death of two women and saw twenty dead bodies.<sup>84</sup> MASSOB leader Raph Uwazuruike claims fifty were killed while the police put the figure at seven people.<sup>85</sup> A number of the injured were taken to nearby police stations, including a thirty-six-year-old petty trader interviewed by Human Rights Watch. After he was shot in the leg by the police he tried to escape before being arrested and taken to Okigwe police station and then to the federal capital Abuja, where he was detained for five months:

At Okigwe police station they kept us in the sun from 9.00a.m to 4.00pm. We were covered with the Biafran flag. They forced us to lie down and they kicked our face and body with their boots and batons, whenever they felt like it. They took our names and asked us where we come from. They said we are the people who want freedom.

Then, later in the day they carried us to Owerri police station where we stayed overnight. The next morning about sixty of us were taken to a police station in Abuja. By this time I was unconscious, almost dead from my injuries. We were detained in Abuja for over six months. We were many MASSOB members in one cell, it was very dirty, we slept on the hard floor and had to urinate and defecate in the same cell. I was handcuffed the whole time and only unlocked for feeding. My leg was swollen and there was puss coming out because a bullet was still inside. After three days a nurse came to look at my leg, and put a bandage on it.

They would call us one at a time to interview. I was taken to a room with two or three officers. They used electric shock treatment on my genitals. They asked why we were holding that rally. I said we are fighting for freedom and they said we should denounce Biafra. I said no, I won't denounce. It was more than painful. They did this to me five times. I don't know why they chose me, as I already had a wound on my leg. Others complained of beating with baton and boots.<sup>86</sup>

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<sup>84</sup> Human Rights Watch interview, Enugu, March 3, 2005.

<sup>85</sup> "All Igbo politicians want Biafra," *Newswatch*, June 23, 2003 and, "Seven pro-Biafran campaigners killed in Nigeria: police," Agence France-Presse, March 30, 2003.

<sup>86</sup> Human Rights Watch interview, Enugu, March 3, 2005.

In August 2003, he was transferred to a hospital in Imo State with several other MASSOB detainees, after which they were released without charge.

More recently, on September 11, 2004, fifty-three people were arrested at a football match organized by MASSOB in the Ojo area of Lagos. The match was part of a 'Biafran Freedom Tournament'. Eyewitness described how police attempted to break up the crowd, fired tear gas and arrested participants and spectators. According to their lawyers and press reports, those arrested included a thirty-eight-year-old woman and a teenage girl who, along with thirty-four others who claimed they were not members of MASSOB.<sup>87</sup> The fifty-three were detained at the state police command at Panti, Lagos for nearly one week before being charged with treasonable felony for conspiring to "levy war against the Federal Republic of Nigeria [...] by participating in the launching of the Biafra Freedom Football Tournament."<sup>88</sup> Lawyers acting for the accused told Human Rights Watch about their clients' alleged ill-treatment in police custody. They described how during detention at Panti, the male suspects were stripped naked and beaten with batons and gun butts. Several of the suspects were reportedly held at gunpoint and forced to admit to membership of MASSOB and sign confessional statements.<sup>89</sup> Human Rights Watch researchers interviewed a MASSOB member who was present at the football match and witnessed the arrests, but we have not spoken with the victims directly.

### ***The Purpose***

In the vast majority of the cases of criminal suspects interviewed by Human Rights Watch the primary function of torture was to extract confessions or information about an alleged crime. The attitude that torture is an accepted tool of interrogation appears to pervade all levels of the police force. For example, a lawyer attending a workshop organized by a Nigerian NGO on torture prevention told Human Rights Watch that participating members of the Mobile Police Force and the SSS publicly explained that torture is the only way they can get suspects to confess.<sup>90</sup> Typically, those interviewed described being beaten until they admitted to the alleged crime, after which the investigating police officer wrote or dictated a confessional statement for them to sign. Many victims described signing the statement without knowing what it said, either

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<sup>87</sup> Human Rights Watch interviews, Enugu, March 3, Lagos, March 8, and telephone interview April 28, 2005. See also, "Nigerian Police arrest 53 pro-Biafra campaigners for unlawful assembly," Agence France-Presse, September 18, 2005.

<sup>88</sup> Charge sheet filed in the Federal High Court of Nigeria, Holden at Lagos, Suit No: FHC/L/CS/991/2004. See also, "FG Charges 53 suspected MASSOB members to Court for Treason," *Vanguard*, March 16, 2005.

<sup>89</sup> Human Rights Watch interview, Lagos, March 8, 2005 and telephone interview, April 28, 2005.

<sup>90</sup> Human Rights Watch interview, Kano, March 13, 2005.

because they were illiterate or because the document was withheld from them, and first hearing of their charge when arraigned before a court.

Human Rights Watch found in nearly all the cases documented there is the added element of extortion. Nearly all those interviewed told Human Rights Watch how they or their relatives had to part with money at some point during their detention. Most commonly this was in exchange for bail or release without charge, and in other cases to expedite arraignment before a court. The amount demanded by officers ranged from one or two thousand naira (approximately US\$ 8-16), to 300,000 naira (approximately US\$ 2,303). However, paying money to the police did not guarantee release.

In December 2004, a twenty-three-year-old motorcycle taxi driver was arrested by the police in Enugu for being an accomplice to a crime: for allegedly carrying a criminal as a passenger on his bike. Detained at the Enugu State police command, he was tied and hung from a rod between two tables, and repeatedly beaten with wooden sticks until he agreed to sign a statement. He was held for over one month before being charged to court. On visiting the police station, the man's father was told by the investigating police officer to bring 92,000 naira (approximately US\$ 706) in exchange for his son's release. His father decided to sell the motorbike, which constituted his son's livelihood. Payment was made directly to the police officer but the son remained in custody. On January 24, 2005 he was brought before Enugu Magistrates Court, charged with robbery and remanded to prison where, at the time of Human Rights Watch's interview with him, he was awaiting trial.<sup>91</sup>

The following case clearly illustrates how arbitrary arrest and torture are combined with attempts to extort money from suspects and their relatives. On August 23, 2004 an eighteen-year-old mechanical engineering student was arrested by police near his home in Ikotun, a suburb of Lagos, following what he believed to have been a complaint to the police from a friend he owed money to. At Ikotun police station he was hung upside down from an iron pole while eight police officers beat him with thick wooden sticks, kicked him with their boots, stoned him and cut his stomach with a razor blade. He told Human Rights Watch that two police officers forged his confessional statement admitting to robbery, and then said they were going to "eat money" from his parents – a well-known euphemism for extortion. They then took him in a police vehicle and picked up five of his friends from their homes: four young men aged between eighteen and twenty-two and an eighteen-year-old-girl. All six were detained for a week at Ikotun police station before being transferred to the state police headquarters at Panti, Lagos.

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<sup>91</sup> Ibid.

On arrival at Panti police station, the investigating police officer threatened the student and his friends with a gun unless he or they admitted he was a robber, a different charge to that originally alleged:

He called me out to the yard and shot me in the left foot. He called out Chuks<sup>92</sup> and shot him in the right foot, Chidi in the left leg, Ejike on the left foot, Ugo on the right foot. They hung all five of us by our arms from an iron pole and the IPO [investigating police officer] and another officer beat us with sticks. Rain fell for an hour but they left us hanging outside. Then we were brought down to one corner and told to lie down. They stood on our wounds with their boots and started beating us again. This went on for some minutes. My foot was bleeding. Mary was left alone. We were taken to an isolation cell, where we spent two days without food. After this we were taken back to the main cell for one week.

Our parents heard and came and visited. They brought food and water but the IPO kept half of it for himself. We explained to our parents what had happened and they tried to defend us. They were told [by the IPO] to bring 50,000 naira (approximately US\$ 385) for each of us. Chidi, Ugo and my parents responded and brought 150,000 naira (approximately US\$ 1,151). The police told them we would spend two more days before we could go. On the third day, September 17, they called us and said we should prepare to go to court, because not all of our parents responded with money. At Ebute Meta Magistrates Court No. 13 all six of us were charged with conspiracy to rob.<sup>93</sup>

At the time of interview with Human Rights Watch, six months after they were charged to court, all six were awaiting trial in Ikoyi and KiriKiri prisons. According to the student, his parents told him that the Investigating Police Officer said he will only transfer the case file to the Director of Public Prosecutions if they paid him more money.

### ***The Perpetrators***

Police officers attached to the Nigerian Police Force or seconded to the Economic and Financial Crimes Committee, and officers of the National Drug Law Enforcement

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<sup>92</sup> All names have been changed to protect the identity of the individuals concerned.

<sup>93</sup> Human Rights Watch interview, Ikoyi Prison, Lagos, March 10, 2005.

Agency that is, persons who are public officials or persons acting in an official capacity, committed the acts of abuse documented in this report. The extent to which the use of torture appears to be entrenched in the Nigerian Police Force is demonstrated by the involvement of senior ranking officers and the impunity which they appear to enjoy. Many victims interviewed by Human Rights Watch described how senior police officers, including inspectors, divisional police officers, a deputy superintendent of police and a chief superintendent of police physically carried out torture or explicitly instructed junior officers to torture suspects, sometimes watching while it was carried out. Numerous victims and witnesses told researchers that some of these senior officers are known within the police station by the nickname “OC (Officer in Charge) Torture.”<sup>94</sup>

The involvement of senior ranking officers in ordering torture and killing in Kano State was confirmed by a junior officer in Kano who worked alongside the Special Anti-Robbery Squad up to 2003 and claimed he had seen senior officers inflict or give orders to torture. He told Human Rights Watch:

Senior officers are involved. The chief superintendent who is the second in command at the state CID - he directs his men to shoot and torture and to beat. The state commissioner knows about it. Also the Special Anti-Robbery Squad (SARS) do the same. Superintendent [...] is the second in command there. Everybody is aware of what is going on but they cannot stop it.<sup>95</sup>

Human Rights Watch interviewed a thirty-four-year-old schoolteacher and father of two, from Daura, Katsina State who was brutally beaten by police, including the Divisional Police Officer (DPO) in charge of the police station. The man was accused of kidnapping the mentally-ill son of his neighbor, and arrested in December 2003:

Five policemen arrested me on December 22, 2003. They were waiting when I came back to my house. We drove to Sabon Gari police station in Daura. They didn't ask me anything, they just took my clothes and all the property I had with me. I was left in my short knickers. They took me to the investigation room where I was handcuffed and shackled by the legs. All five policemen started beating me with stick and baton.

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<sup>94</sup> Human Rights Watch interviews, Lagos, March 10, 2005, Kano, March 13, 2005 and Central Prison Kano, March 12, 2005.

<sup>95</sup> Human Rights Watch interview, Kano, March 2005.

They were saying, “Where is that boy you kidnapped?” This went on for thirty minutes. After this they took me to the cell.

At 2.00a.m I was called out to the DPO’s office. He said that I am not telling the truth and sent me back to the investigation room. There the DPO himself started beating me with a baton. Three other officers were present. They said I must tell them where the boy is. They beat me all over with a baton, a big stick and cable wire. They burnt cigarettes on my back. It went on for over one hour and I became unconscious. I was bleeding, I had a fractured leg. My arm and six of my fingers were broken where they stepped on my hands with their boots.<sup>96</sup>

The next morning, his brothers went to the police station and persuaded the DPO to release him. They immediately took their brother to hospital where he was treated for his injuries:

It took me eight to nine months to recover. It is still paining me. In the harmattan [cold and dry winds from the Sahara] season I get real pain. I used to sleep well but now I never enjoy. If I remember that day I shake. If I remember that day, if I remember that nothing has happened to the DPO. There is no justice in Nigeria.<sup>97</sup>

An affidavit by the victim’s lawyer, submitted in a case filed against the DPO, a copy of which was obtained by Human Rights Watch, states: “He was not only mercilessly beaten to a point of coma by the second respondent [DPO] and his men at the police station, but that as a result of the torture, the Applicant sustained multiple fractures in both hands, his head swollen, open wounds all over his body and cigarette burns on his back coming from cigarette fire pressed on his body by some policemen at the station.”<sup>98</sup> Medical records and X-rays seen by Human Rights Watch confirm he sustained a total of six fractures.

In another case, a twenty-two-year-old student was arrested and beaten on the explicit orders of the officer in charge of Mobile Police for the Enugu State police command. As

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<sup>96</sup> Human Rights Watch interview, Kano, March 13, 2005.

<sup>97</sup> Ibid.

<sup>98</sup> Affidavit in support of the motion enforcing fundamental rights in the High Court of Justice of Katsina State, Suit No. IGH/23M/04.

with most torture cases, this example illustrates a wide range of other concerns including arbitrary arrest and extortion:

It happened at 3.00p.m on February 22, 2004. I was on my street and I saw three MOPOL on *okada* (motorbikes). They said I looked like an armed robber that had just stolen a machine (motorbike) and so arrested me. I told them I was not an armed robber. I explained I was just coming home from lessons, that they should follow me to my compound to ask my people. They said they would not go to my compound but took me to the MOPOL station at Agbani. There they took my name and said that I had stolen a machine. I said I didn't do it and asked to see the complainant and to see the machine I was supposed to have stolen.

I was at Agbani MOPOL station for two days. I slept in a small cell. Just me and one other boy, who they told me was my case-mate. I didn't know him until then. [...].

They asked me to agree to the crime, but I did not. Then they beat me with a rod an uncountable number of times in the morning and evening. When the boss directed, the officers would come back and beat me, just to get me to agree. I had no food and water, so one small girl came and gave us food. My case-mate was beaten too.

When I refused to agree they took me to the State CID. They took me to an open cell. At night they brought me out and started beating me. They would take me to another room. There were six officers in the room, but only one was beating me. Of the six, some were in mufti [plainclothes], including the one who was beating me. The inspector-in-charge was also in the room.

They chained my hands and feet together and hung me up from an iron hook in the ceiling. They used baton, a metal rod and a flat bar to beat my back and hit me on the knee. They beat me on the first day and the second day but I still refused to admit I was a robber.

About a week later at 11.30p.m, they took me to the officer in charge of MOPOL - they call him OC [officer in charge] Robbery. In his office he

brought out a gun and said he had told my people they should pay 50,000 naira (approximately US\$ 385) for my release. He said if I don't admit he will take me outside and shoot me. Then he ordered his boys to beat me, right there in his office. They did, with batons. I was taken back to the cell and about thirty minutes later he called me in again. My casemate told me to agree to the crime or they would shoot me. When they called me back again I thought I was going to be killed. I told OC Robbery I agreed. This was only because of the torture. He brought a paper for me to sign but they would not let me read it. I was taken back to the cell.<sup>99</sup>

On May 2, 2004, three months after his arrest, he was brought before Umuonu Magistrates Court in Enugu, charged with armed robbery and remanded to Enugu prison. One year after his arrest, when Human Rights Watch met him in Enugu prison he was still awaiting trial:

[...] When I think about what happens it pains me so much. Why did this happen? How did I end up here? Now I just don't know what to do. I've missed my school admission. I don't know what to do when I get outside. I am the only son.<sup>100</sup>

Since 2001, on repeated occasions Human Rights Watch has raised a range of serious abuses by the police, including extrajudicial killings and torture, with senior police officials at federal and state level. The first time the existence of torture as a problem was acknowledged to Human Rights Watch was during the course of this research at an interview with the Acting Inspector General of Police. Prior to this each time the response had been one of denial and refusal to acknowledge this abuse. An encounter at the Kano State police command during Human Rights Watch's most recent research exemplifies this response.

When Human Rights Watch asked the Kano State commissioner of police what action he was taking to reduce torture in his command, his response was simply, "torture does not happen here." He said he hadn't received any complaints of torture or ill-treatment against his officers.<sup>101</sup> Researchers requested access to the detention facilities at the

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<sup>99</sup> Human Rights Watch interview, Enugu Prison, March 4, 2005.

<sup>100</sup> Ibid.

<sup>101</sup> Human Rights Watch interview with Ganiyu Dawodu, Kano State Commissioner of Police, Kano, March 14, 2005.

command, but were told to come back later in the day. When we returned to the command, we were informed by the Police Public Relations Officer (PPRO) that the cells were being refurbished and all detainees had been transferred to other locations over one month earlier. However, as Human Rights Watch researchers were escorted by the PPRO out of the station we observed a badly bruised man, unable to walk, being carried out from the cells, which were according to the PPRO, no longer in use. When we questioned about this, the PPRO about this, he said: “The man is just sick,” and maintained no suspects were held there. Minutes later, Human Rights Watch researchers observed a police vehicle arriving outside the cells and three men being manhandled and pushed inside the cells.<sup>102</sup>

### ***Torture and Ill-Treatment in the Custody of Other Law Enforcement Agencies***

A number of detainees interviewed by Human Rights Watch had been tortured or ill-treated in the custody of other law enforcement agencies. Four of these were arrested by police officers and detained in the custody of the Economic and Financial Crimes Commission (EFCC) in 2003 and 2004. The EFCC was established by the federal government in 2002 to investigate corruption and other financial crimes such as fraud and money laundering and enforce all economic and financial crimes laws. According to provisions in the act establishing the EFCC, all officers of the commission “shall have the same powers, authorities and privileges (including the power to bear arms) as are given by law to member of the Nigerian Police.”<sup>103</sup> The commission is also able to appoint or second police officers in order to carry out its functions.<sup>104</sup> However, as stated earlier, the EFCC maintains a separate command structure to the Nigerian Police Force.

The EFCC has been praised nationally and internationally for its investigative zeal and efforts to combat corruption. All the cases of torture in the custody of the EFCC documented in this report took place in Lagos and were perpetrated by officers seconded from the Nigerian Police Force. Those interviewed by Human Rights Watch said they were taken to EFCC offices on Awolowo Road or Okotie Street where they were horsewhipped or beaten with cable wire and forced to sign statements confessing to obtaining money through false pretences. All four were held for prolonged periods, ranging from between two and nine months and without legal representation. The

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<sup>102</sup> Human Rights Watch interview with Baba Mohammed, Kano State Police Public Relations Officer, Kano, March 14, 2005.

<sup>103</sup> Section 8 (5) of the Economic and Financial Crimes Commission (Establishment) Act, 2004.

<sup>104</sup> Section 8 (3) of the Economic and Financial Crimes Commission (Establishment) Act, 2004.

leadership of the EFCC must be held accountable for the actions of seconded police officers under their authority.

A twenty-six-year-old man in Lagos described how, in EFCC custody and on the orders of a senior police officer seconded to the commission, he was tortured so badly he had to be admitted to hospital. The man told Human Rights Watch that on July 12, 2003, he voluntarily reported to the EFCC offices after a complaint was made against him. After initial questioning by police officers, he was detained in a cell at Awolowo Way:

On 14 July I was called in to write a statement. What I wrote was not in their favour so they tore it up. The Assistant Superintendent of Police (ASP) called in two MOPOL officers, who were in mufti [plainclothes]. They asked me to take my clothes off, lie down and raise my bottom. They used cable wire to cane my arms. They said not on my back because it leaves marks. This took place in the evening of July 14 and 15 for about twenty-five minutes each time. On July 14 they also used pliers on my penis. The Assistant Superintendent of Police ordered the MOPOL officer to do this. I have pain in my penis now. At first I was passing blood. All this took place in the office of the ASP. He said I should agree with what they were saying because the complainant was the best friend of one of the officers.

I was bleeding. It was very painful; I still have scars on my bottom. After the second day I was badly wounded and there was blood. The officers were terrified and so I was taken to the police hospital at Falomo. I couldn't remember much; I was in so much pain. I didn't know where I was. I was in hospital for two days. My hands and legs were chained to the bed.

Then they brought me back to the office on Awolowo Way, to write a statement. They told me if I don't write I will be tortured again. I said I wouldn't write and they slapped me. My cellmate advised that I should comply so I decided to copy their statement and sign it.<sup>105</sup>

He remained in EFCC custody for two months before being transferred to Kirikiri Prison where he is currently awaiting trial.

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<sup>105</sup> Human Rights Watch interview, Kirikiri Prison, Lagos, March 9, 2005.

Human Rights Watch also interviewed a thirty-year-old farmer detained by the National Drug Law Enforcement Agency (NDLEA), an agency that employs its own law enforcement personnel, conferred with powers to arrest and detain suspects. In this case the farmer was arrested by the police in early January 2005, after an altercation with a police officer, near his house in the Panshekara area of Kano. He was taken to Panshekara police station, where police officers found forty-eight wraps (approximately sixty grams) of marijuana on his person. On the first night of detention he was beaten with a baton by one police officer. After eight days of detention without charge, he was transferred to the NDLEA state command on Airport Road in Kano. He was held in a small cell, known as the “special cell,” for two days before being moved to one of three large cells, known as “colombia cells,” where suspects accused of lesser offenses, such as using or dealing in lower class drugs like marijuana, are incarcerated. He told Human Rights Watch he saw detainees being beaten by NDLEA officials with batons, canes and boots, sometimes while suspended, and subjected to other ill-treatment.

He was eventually released as part of what appeared to be an amnesty arrangement ordered by the local director of the NDLEA, who drew up a list of detainees to be discharged. Other NDLEA staff took advantage of this opportunity to extort money, demanding huge sums to facilitate release. He told Human Rights Watch how his family had to spend several thousand naira before he was granted release without charge.<sup>106</sup>

### ***The Location***

The majority of people interviewed by Human Rights Watch had been detained at their local police station or the state police command headquarters. Some of the most extreme forms of torture described to researchers took place at the criminal investigation departments of the state police headquarters, known as “State CID.” Many of the suspects who were detained at State CID in Enugu, Lagos and Kano told Human Rights Watch they saw or heard of co-detainees who had been tortured or killed in police custody. Local human rights organizations, as well as the victims interviewed, identified several stations notorious for ill-treatment of detainees. These include Agbani and Abakaliki Road police stations in Enugu, Area F and Area G police stations in Lagos, Yar’Akwa, Qwalli and Shahuci police stations in Kano, the state police headquarters and Ibrahim Tawio Road police station in Kaduna.<sup>107</sup>

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<sup>106</sup> Human Rights Watch interview, Kano, March 14, 2005.

<sup>107</sup> Human Rights Watch interviews, Enugu, March 4, 2005, Lagos, March 7 and 8, 2005, and Kano, March 11 and 13, 2005.

The torture itself took place in various locations within the stations, including the corridor, offices, the police yard, and in a large number of cases, interrogation rooms. Victims and witnesses described in some detail special rooms which appeared designed and equipped to inflict torture. These rooms were known as the “black room,” “theatre room,” “disco room,” and “German cell,” and were equipped with implements such as sticks and iron bars as well as poles and hooks from which to suspend the victim.<sup>108</sup> A police officer explained to Human Rights Watch researchers what happens in one such room within the Kano State police headquarters:

Torture takes place in the “black room” and the “theatre room.” They have equipment inside the rooms. The time I worked together with them, I saw them beat people. They use wood, rods. They shoot robbery suspects in the leg to force them to tell the truth. Many didn’t do it but they are forced to say they did and sign a statement.<sup>109</sup>

### ***The Right to Freedom from Torture***

The treatment of the majority of people interviewed by Human Rights Watch, many whose cases are described in this report, rises to the level of torture as defined in international law. The acts documented demonstrate the key elements of torture set out in Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:

“Torture” means any act by which severe pain or suffering, whether physical or mental, is...intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

The vast majority of the cases documented by Human Rights Watch involved the deliberate infliction of pain by the police either for the purpose of extracting information

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<sup>108</sup> Human Rights Watch interviews, Lagos, March 10, 2005, Kano, March 12 and 13, 2005.

<sup>109</sup> Human Rights Watch interview, Kano, March 2005.

about an alleged crime or a confession, or as punishment for a crime the person is suspected of having committed. For a small number of individuals, the purpose of the pain inflicted by police officers appeared to be as punishment for membership of a political group. All of the people interviewed by researchers had their most basic protection against torture, which can never be derogated by the government, violated by public officials.

## VII. Rape by the Police

Rape and other forms of sexual violence are cruel, inhuman, and degrading treatment that in particular cases rise to the level of torture. In Enugu, Human Rights Watch researchers interviewed two young women who had been gang-raped by three police officers, including a Deputy Superintendent of Police (DSP). They were both secondary school students, aged seventeen and eighteen at the time of the incident. At around 6.00p.m on September 27, 2004, the girls were walking home when two men in a car stopped and ordered them to enter the vehicle. When they refused, the men showed them their police identity cards and threatened to flog them with a horsewhip:

We were afraid and pleading with them. DSP Uttang James said it was too late and that we were stubborn, didn't we know that he is a police man. He said we look like the cultist<sup>110</sup> girls that work for criminals. He ordered Constable Emmanuel Effiong to open the car and push us inside. He said if we run away they will shoot us in the leg. We started screaming. Uttang said he will teach us a lesson we will never forget.<sup>111</sup>

The girls were taken to the police detective college on Agbani Road:

Uttang pushed us inside the house and said, "Do you know what I want? I want co-operation." I asked what type of co-operation. He told me to shut-up and that all he wanted was "bang, bang, bang." We were so afraid. We thought we were going to be ritually killed. Uttang brought out a gun, showed us a bullet and said if we make a noise he will kill us. In the first room he asked Effiong to pull off my clothes and told him to sleep with me. Then Effiong raped me. Then Uttang took my friend into the second room at the back of the house.

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<sup>110</sup> "Cult" is a term used in Nigeria to refer to student gangs, similar to university fraternities, who have over the last ten years becoming increasingly involved in violent criminal activity.

<sup>111</sup> Human Rights Watch interview, Enugu, March 3, 2005.

Uttang [...] said he was going to drop us at home. He told Effiong to look after us. A few minutes later he came back with another man, Constable Usip Asukwo. I thought he was our helper. Uttang said that Effiong and Asukwo should put a mattress out and each take one of us. That he wanted to watch. Asukwo took out a condom but Uttang took it away. Uttang told him to switch the light on so he could watch it well. They jumped on to us. Uttang flogged our legs, and said we should spread our legs. He then said he was going to do it again, but we cried and Asukwo took pity on us.

At 12.00 midnight Uttang told Asukwo to help him drop us at home. We started on our way but came back to the college because there were armed robbers around. Uttang said he was going to sleep with us again. We cried and said that we would not allow it - only over our dead bodies. Uttang said he would get a gun and kill us. I was raped twice in total, my friend five times.<sup>112</sup>

Eventually the girls were taken to Constable Asukwo's house, where the junior officer tried to apologize for what had happened, claiming DSP Uttang, his superior officer, forced him to have sexual relations with them. He also told them that Uttang had raped other women before. At 6.00a.m, twelve hours after their ordeal had begun, they left Asukwo's house and walked home.

This case has received significant attention within Nigeria thanks to the efforts of a local human rights organization and the willingness of the women who were prepared to speak publicly about their ordeal.<sup>113</sup> The Enugu based Centre for Victims of Torture and Extra-Judicial Killing (CVEKT) has conducted a tireless campaign to bring the perpetrators to justice, petitioning the police authorities, the federal government, national assembly and the National Human Rights Commission. As a result the police authorities conducted an internal investigation which indicted the officers for rape and abduction. The two police constables have been dismissed from the force while the senior officer was suspended. At the time of writing, all three are in Enugu prison awaiting trial.

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<sup>112</sup> Human Rights Watch interview, Enugu, March 3, 2005. See also documentation from Centre for Victims of Extra-Judicial Killings and Torture, Enugu, including statement, "How we were abducted, tortured and raped by three policemen in Enugu on Monday 27<sup>th</sup> September 2004."

<sup>113</sup> For example, Mike Ubani, "Gang rape in Enugu", *Insider Weekly*, November 15, 2004 and, "DSP, two corporals implicated in rape case," *Daily Independent*, October 20, 2004, and "Police probe officers over alleged abduction, rape," *The Guardian*, October 22, 2004.

In another recent case from Enugu, a fourteen year-old-girl was raped at a police station in November 2004. According to information from a local women's rights organization, the girl had a dispute with her neighbor, a policewoman, and was accused of stealing an item of clothing worth less than US\$2. The dispute lingered and several months later, the fourteen-year-old was arrested and detained at a local police station. During the night a junior police officer restrained the child, tied her hands behind her back and, despite protests from other detainees, allegedly raped her. According to the women's rights organization, the following morning the matter was brought to the attention of the officer in charge of the station and the girl was released. Perhaps in an effort to show action was being taken, the officer was detained for less than forty-eight hours and then released. However, the policeman alleged to have committed the rape and the policewoman later threatened to charge the girl with stealing so as to intimidate her and her family into silence.

About three weeks after the rape, on the request of the girl and her family, a local women's rights organization wrote to the head of the police station to complain about the rape. At once the two officers dropped the threat of charging her to court for stealing. Shortly after this, two armed men entered the girl's house while she was alone at home. Holding a gun to her head, she was forced to swallow four white tablets before they left without saying anything. The girl did not know what the tablets were but did not experience any immediate side effects. Both the family and the women's organization believe this event was connected to their efforts to publicize the rape and believe the intruders were people working on behalf of the two police officers. After this the family immediately asked the NGO to drop the case and have since moved house out of fear. At this writing, the NGO have not been able re-establish contact with the girl or her family and the police officer who allegedly committed the rape is still at his post.<sup>114</sup>

Local women's rights organizations and the media frequently report cases of sexual violations against girls and women, including molestation, rape and gang rape, by members of the police force across the country.<sup>115</sup> It is believed however, that the vast majority of cases go unreported because of the stigma associated with rape and the fear of intimidation and reprisals by the police.<sup>116</sup> In 2004, a women's rights organization in

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<sup>114</sup> Human Rights Watch interview, Enugu March 4, 2005, email correspondence March 16 and May 4, 2005 and telephone conversation May 5, 2005.

<sup>115</sup> See for example, *Beyond Boundaries: Violence Against Women in Nigeria*, Project Alert on Violence Against Women, (Lagos, 2001), *No Safe Haven, An Annual Report of Attacks on Women in Nigeria December 1999-November 2000*, Project Alert on Violence Against Women (Lagos 2000), "Cop Rapes Girl, 18," *PM News*, May 17, 2002, and "Judge Condemns Police Behaviour in Rape Case," *Vanguard*, July 16, 2002.

<sup>116</sup> Human Rights Watch interviews, Enugu, March 2 and 4, 2005.

Enugu received six official and thirteen unofficial reports of police rape in the Enugu area. The staff of the organization explained how the victim or one of her relatives reported the sexual violation but insisted that no legal action was taken. According to the organization, “they just want someone to talk to. No-one wants to publicly talk about it or face intimidation.”<sup>117</sup> The reluctance to report cases of rape or sexual violence by police means it is extremely rare for action to be taken against the perpetrators.

## **VIII. Abusive Conditions of Detention and Denial of Medical Treatment**

In addition to being subjected to physical violence, suspects held in police custody are forced to endure appalling conditions that violate international standards for the treatment of detainees and may amount to cruel, inhuman, and degrading treatment. Detainees described being routinely packed into small, poorly-ventilated cells with up to thirty or forty other suspects. Many sleep on the floor without mattresses or bedding and in some cases were forced to lie over each other to sleep in shifts. A fifty-nine-year-old man, detained at the state police command at Panti, Lagos, in January 2005, told Human Rights Watch: “It was jammed, we were packed like sardines, lying head to tail. We couldn’t move. We slept on the floor, just like that”.<sup>118</sup>

Sanitation and hygiene facilities are limited; in some stations there is only one toilet per cell and little or no water for washing. Lack of resources, corruption and overcrowding means it is rare for suspects to be given adequate food rations. Many detainees said they were forced to buy their own food from hawkers at the police station or rely on relatives to provide it for them. In other cases the denial of food and water for several days or weeks appeared to be a deliberate policy to further punish suspects. When Human Rights Watch raised the matter with the Kano State command, the police spokesperson refuted this; he told researchers that all suspects are fed three times a day.<sup>119</sup>

This combination of poor hygiene, nutrition and overcrowding has led in some cases to illness and disease. Skin rashes and stomach infections are common. Basic medical facilities are often not available and detainees are forced to buy medicines such as painkillers to treat themselves. Many victims, who suffered serious injuries as a result of torture and ill-treatment, described being denied medical treatment. Bullet wounds and

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<sup>117</sup> Human Rights Watch interview, Enugu, March 4, 2005.

<sup>118</sup> Human Rights Watch interview, Lagos, March 10, 2005.

<sup>119</sup> Human Rights Watch interview with Baba Mohammed, Kano State Police Public Relations Officer, Kano, March 14, 2005.

lacerations were left untreated, resulting in infection. For example, four detainees interviewed in Ikoyi Prison, Lagos, had been shot with a gun in one or both feet whilst in police detention. None received medical attention at the police station and when researchers met them, all had difficulty walking. Their feet were swollen and scarred or had developed infections. A nineteen-year-old trader, detained at Ogudu police station in November 2004, told Human Rights Watch: "They took me outside and shot me in the right foot. There was so much blood as the bullet had cut through a vein. It was bleeding for three weeks [...] I got no medical attention at the police station."<sup>120</sup>

Similarly, the conditions of detention described by a thirty-year-old farmer held at the National Drug Law Enforcement Agency (NDLEA) state command in Kano in early 2005 violate minimum standards as set out in international human rights instruments and constitute cruel, inhuman, and degrading treatment.<sup>121</sup> According to the man's account, the cell was very poorly ventilated and extremely congested, with approximately fifty men packed into each of the three cells. He was detained for a total of thirty-nine days during which time he was not allowed out of the cell. There was a lack of water and food was severely inadequate. He described how he and the other detainees were fed just one cup of *garri* (dried cassava) with tinned milk each day. It is not clear whether this was due to general lack of resources, corruption or a deliberate policy to withhold food from suspects.

## **IX. Lack of Due Process of Law**

The criminal justice system in Nigeria is in a state of paralysis, effectively unable to dispense justice in a fair and speedy manner. Every aspect of the system -- from law enforcement to the judiciary, through to the prisons -- is characterized by a combination of inefficiency, corruption and lack of resources. A characteristic feature is the shocking disregard for due process as guaranteed under the Nigerian constitution. To one extent or the other, every case of torture and ill-treatment by the police and other law enforcement agencies documented by Human Rights Watch was accompanied by serious violations of the due process of law including the following:

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<sup>120</sup> Human Rights Watch interview, Ikoyi Prison, Lagos, March 10, 2004.

<sup>121</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Standard Minimum Rules), adopted by the U.N. Economic and Social Council in 1957 and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, 1988.

## **Acceptance of Forced Confessions**

The acceptance of forced confessions is one of the most serious due process concerns identified by Human Rights Watch. Article 15 of the Convention against Torture provides, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." The Nigerian Evidence Act contains a similar provision.<sup>122</sup> A number of the suspects interviewed by Human Rights Watch described how despite displaying visible signs of torture or ill-treatment, for example, bruises, scarring or broken bones, to judges or magistrates during their arraignment, the court officials did not question the admissibility of their confessional statement. Others told Human Rights Watch they were not given the opportunity to tell the judges they had been tortured. A thirty-four-year-old woman, tortured at the Lagos State police headquarters in January 2005 and whose case is described on page 33, was brought before Ebute Meta Magistrates Court No. 8 on February 17, 2005. She had difficulty walking unaided and showed other visible signs of injury, including bruising on her face, which was not questioned by the magistrate. She told Human Rights Watch: "When I arrived at the court I fainted. The Investigating Police Officer just left me there. As I faced the judge I had to be supported as I couldn't stand."<sup>123</sup>

In such cases it is the responsibility of the judge or magistrate to ensure that statements extracted under torture or ill-treatment are not invoked as evidence in court proceedings. If a defendant alleges during the course of judicial proceedings -- whether at pre-trial hearings, or at the trial itself -- that he or she has been compelled to make a statement or to confess guilt, the judge is obliged under international law to consider such an allegation at any stage and to order a prompt and impartial investigation into the allegation of forced confession by competent and independent bodies.

In the twelve northern states of Nigeria, which have adopted Shari'a (Islamic law) to cover criminal law, the acceptance of confessions extracted under torture can have particularly serious consequences. The Shari'a system, as applied in northern Nigeria, allows sentences that include the death penalty, amputations, and floggings. Human Rights Watch has documented numerous cases in the states of Kaduna, Kano, Kebbi,

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<sup>122</sup> Section 28 of the Nigerian Evidence Act, 1990, states: "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 having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature."

<sup>123</sup> Human Rights Watch interview, Kirikiri Prison, Lagos, March 9, 2005.

Niger, and Zamfara, where defendants have been subjected to harsh treatments or punishments, particularly amputations, on the basis of confessions extracted under torture.<sup>124</sup>

### ***Failure to be Informed of Grounds for Arrest***

The Nigerian constitution states that: “Any person who is arrested or detained shall be informed in writing within twenty four hours (and in a language that he understands) of the facts and grounds for his arrest or detention.”<sup>125</sup> The right “to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him” is also guaranteed in the International Covenant on Civil and Political Rights (ICCPR), to which Nigeria has been a state party since 1993.<sup>126</sup>

Many of those interviewed by Human Rights Watch said that the police failed to inform them of the grounds for their arrest or details of the charges or evidence against them. Numerous suspects did not know what crime they were being charged with until they were arraigned before a court. Others described to researchers how the charges of the alleged crime changed during the course of interrogation. For example, an eighteen-year-old man, whose case is described on page 37-38, was arrested in Lagos in August 2004 after a complaint to the police from a friend he owed money to. Initially he was interrogated in relation to the money he owed, but later was accused and charged with conspiracy to rob.<sup>127</sup>

### ***Absence of Legal Representation***

The right to a fair hearing, including the right for a defendant to “defend himself in person or by legal practitioners of his own choice” is guaranteed in section 36 of the Nigerian Constitution. Article 14 of the International Covenant on Civil and Political Rights and Article 7 of the African Charter on Human and People’s Rights affirm the right of every person to legal assistance.<sup>128</sup>

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<sup>124</sup> For further details of the cases documented and a full discussion on the implementation of Shari’a in Nigeria, see Human Rights Watch, “Political Shari’a?” Human Rights and Islamic Law in Northern Nigeria,” September 2004.

<sup>125</sup> Constitution of the Federal Republic of Nigeria, 1999, Chapter IV, section 35.2 (3).

<sup>126</sup> International Covenant on Civil and Political Rights (ICCPR), article 14.3 (a).

<sup>127</sup> Human Rights Watch interview Ikoyi Prison, Lagos, March 10, 2005.

<sup>128</sup> Article 14, 3(d) of the ICCPR states the right of every individual “to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.” Article 7(c) of the African Charter on Human and People’s Rights, ratified by Nigeria in 1983, states every individual has “the right to defense, including the rights to be defended by a counsel of his choice.”

Of the fifty people interviewed by Human Rights Watch, only three of the criminal suspects and five MASSOB members had benefited from legal representation during their detention or trial. At the time of arrest, the police typically did not inform the suspects of their right to a lawyer and the suspects did not seek legal advice, either because they were not aware of their right to do so or could not afford to pay a lawyer. Those suspects who were to be arraigned before a court were similarly ill-informed of their right to legal representation by court personnel, including judges or magistrates.

The absence of legal representation helps facilitate the use of torture and other ill-treatment during interrogation. Representatives of local NGOs and lawyers told Human Rights Watch the police would be less likely to torture a suspect who has a lawyer for fear of being reported.<sup>129</sup> They also explained how the provision of legal representation could help ensure due process is adhered to, challenge prolonged detention and increase the likelihood of a fair hearing.

International law affirms the right of every person to "have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it."<sup>130</sup> The Legal Aid Council, a parastatal body, was created by the federal government in 1976 with the mandate of providing free legal assistance and advice to Nigerian citizens who could not afford the services of a private lawyer. However, like many other bodies set up by the government, the Legal Aid Council is seriously under-funded and unable to provide services in all but a small number of cases. The Legal Aid Council has offices in each of Nigeria's thirty-six states, but the capacity of these offices is extremely limited, and in 2005, there was only one Legal Aid Council lawyer in each state. According to the Legal Aid Council's Director of Planning, Research and Statistics, there were plans to expand this to two per state by the end of 2005.<sup>131</sup>

In October 2004, the Legal Aid Council began a program to deploy lawyers to police stations and Magistrates Courts in Imo, Kaduna, Ondo and Sokoto States. In these states, chosen to reflect the volume of legal aid cases and physical congestion in prisons and police stations, four duty solicitors provide pre-trial legal assistance to help reduce prolonged detention of suspects. Since the start of the program, fifty-five suspects in

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<sup>129</sup> Human Rights Watch interviews, Enugu, Lagos and Kano March 2005.

<sup>130</sup> International Covenant on Civil and Political Rights, Article 14.3 (d)

<sup>131</sup> Human Rights Watch telephone interview with T.A. Okunowo, Director Planning, Research and Statistics, Legal Aid Council, May, 3, 2005.

Ondo State and sixty suspects in Imo State have benefited from legal services.<sup>132</sup> While this is a tiny proportion of the overall number of people requiring legal assistance, such programs, if extended, could help reduce incidents of torture and ill-treatment by the police.

### ***Prolonged Pre-Trial Detention***

Section 35 (4) of the Nigerian constitution stipulates that the police must bring a person before a court of law within “a reasonable time.” If there is a competent court of jurisdiction within a forty kilometer radius, “a reasonable time” is defined as twenty-four hours. If there is no court within forty kilometers, arraignment must take place within forty-eight hours or “such longer period as in the circumstances may be considered reasonable.”<sup>133</sup> If suspects have not been brought before a competent court of jurisdiction within two months they must be released unconditionally or “upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.”<sup>134</sup> In practice this is rarely adhered to by the police. The overwhelming majority of people interviewed by Human Rights Watch were not brought before a court within the legally required period but were detained for periods ranging from several weeks to several months. The most extreme examples of lengthy pre-trial detention in police custody were found in Kano, where four men interviewed by Human Rights Watch claimed to have been held at the state police headquarters for one year, fourteen months, fifteen months, and two years respectively.

Even once a suspect is arraigned before a court, lack of co-operation from the police, congestion in the courtrooms, and lack of resources work together to prevent the speedy dispensation of justice. The Attorney General of Kano State and the Director of Public Prosecutions (DPP) for Lagos State both cited lack of co-operation or deliberate obstruction from the police as a major problem. They explained to Human Rights Watch that, in their own experience, the police deliberately withheld case files, or say they are still conducting investigations, in order not to produce the suspect before a court.<sup>135</sup> Lawyers and prison officials reported that some detainees were forced to bribe the police to take them to court or transfer the file to the DPP.<sup>136</sup> Similarly, according to

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<sup>132</sup> Ibid. Figures for Kaduna and Sokoto States were not available. See also “Legal Aid Council deploys lawyers in police stations, courts,” *Punch*, March 17, 2005.

<sup>133</sup> Constitution of the Federal Republic of Nigeria, 1999, Section 35(5).

<sup>134</sup> Constitution of the Federal Republic of Nigeria, 1999, Section 35(4).

<sup>135</sup> Human Rights Watch interviews with Mrs. Bola Ighile, Director for Public Prosecutions, Lagos State Ministry of Justice, March 8, 2005 and Alhaji Aliyu Umar, Attorney General and Minister of Justice, Kano State, March 15, 2005.

<sup>136</sup> Human Rights Watch interviews Lagos, March 10, Kano, March 13, 2005.

recent media reports, the Chief Judge of Delta State publicly accused police officers of withholding case files for the purposes of extortion.<sup>137</sup>

In what is known in Nigeria as the “holden charge” phenomenon, the police regularly refer suspects charged with capital offenses, such as armed robbery and murder, to Magistrates Courts, knowing they are not of competent jurisdiction to hear the case. Local lawyers and human rights activists describe this as a deliberate tactic by the police to further punish suspects and to give the police extra time to conduct investigations.<sup>138</sup> As Magistrates are unable to exercise jurisdiction and without the authority to grant bail in capital cases, the suspects are remanded to prison, pending arraignment before a High Court. In the majority of these cases the trial is not concluded within the legally required two-month period. Approximately 70 percent of Nigeria’s prison population is awaiting trial. Some inmates have been in prison for several years, for example eight, ten or even fifteen years, far longer than the maximum sentence had they been convicted.

Magistrates Courts, which handle about 90 percent of all criminal cases, are extremely overloaded and as a result may take years to complete a case.<sup>139</sup> It is common for suspects to be taken to court for the commencement of their trial and for the judges or magistrates to be absent. In other situations the delay is down to lack or mismanagement of resources. For example, a lawyer in Kano told Human Rights Watch she had come across cases where the accused had to buy the petrol to fuel the police vehicle to take him to court.<sup>140</sup>

## **X. Obstacles to Redress**

Impunity is one of the biggest single obstacles to the reduction or eradication of torture and other serious abuses by police in Nigeria. The fact that in all but a handful of largely symbolic cases there has been no effort to ensure accountability for violations committed emboldens the perpetrators and has perpetuated the culture of violence in the Nigerian Police Force.

Individual victims, human rights organizations and lawyers who have tried to register complaints of torture or ill-treatment with the police authorities frequently cite police

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<sup>137</sup> “Police hide case files for extortion,” *This Day*, May 10, 2005.

<sup>138</sup> Human Rights Watch interviews Enugu, March 5 and Kano, March 13, 2005

<sup>139</sup> Human Rights Watch interview, Kano, March 13, 2005.

<sup>140</sup> *Ibid.*

obstruction to thwart investigations or prosecution. This may take a variety of forms, for example, direct harassment and verbal or physical threats in an effort to intimidate witnesses to drop the case, connivance with judicial officers to ensure the case is thrown out of court, or attempts to bribe victims or their families to drop the case.<sup>141</sup> Some local human rights organizations make good efforts to monitor and document police abuses but find they are hampered by lack of capacity and funds. Where they do submit information to the police authorities or the government, it is rare for them to make use of it.

When the brother of a schoolteacher in Katsina State, whose case is described on page 40, complained to the Divisional Police Officer who committed the torture, “the DPO said he was proud of himself, that he can do whatever he likes, that even if he killed nothing will happen to him.”<sup>142</sup>

The rape of two teenage girls by police in Enugu in 2004, described on page 47, is an example of the lengths the police are prepared to go to deter victims and witnesses from making complaints of torture. The day after the incident, the girls and their elder sister went to their local police station to report the rape. A female police officer tried to dissuade them from taking the matter further, saying: “That is how they behave, just forget about it.”<sup>143</sup> However, the family persisted and lodged a formal complaint. Immediately after doing so, the girls and their families received a number of intimidating calls, including from one of the officers alleged to have committed the rape and the police spokesman for the Enugu State police command.<sup>144</sup> According to reliable sources, both tried to persuade the girls to drop the case. In several letters to the Inspector General of Police complaining about this intimidation, the human rights organization working on behalf of the victims, wrote that over ten phone calls were made by the Enugu State police spokesman to the girls and their relatives between September 27 and November 15, 2004. At first the calls attempted to solicit dialogue and settlement but then became more threatening in tone, culminating in calls from the principal accused who reportedly told the girls, “If you don’t drop the case, I will deal with you and show you I am a man.”<sup>145</sup>

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<sup>141</sup> Human Rights Watch interviews, with victims, witness, NGOs and lawyers in Enugu, Lagos and Kano, March 2005.

<sup>142</sup> Human Rights Watch interview, Kano, March 13, 2005.

<sup>143</sup> Human Rights Watch interview, Enugu, March 3, 2005.

<sup>144</sup> Human Rights Watch interview, Enugu, March 3, 2005, telephone conversation April 29, 2005 and CVEKT correspondence to Inspector General of Police, “Re: a case of abduction, rape and torture against DSP Utang James, PC Effiong Emmanuel and PC Usip Asuquo all of the Nigeria Police Force, (Police Detective College) Enugu and the pandering of the Enugu PPRO,” Ref: CVEKT/1567/OB/2004, November 15, 2004.

<sup>145</sup> *Ibid.*

Local women's organizations who organized a public protest about the rape also faced intimidation from the police. An activist involved in the demonstration told Human Rights Watch that shortly afterwards, she was stopped by the Divisional Police Officer from her local station who questioned her involvement in the demonstration. "He said: 'Take it easy. What happened, you were amongst the protest? You know this happens all the time. You should take it easy, you should leave it now. You know this is what happens,'" she told Human Rights Watch.<sup>146</sup>

### ***Criminal Investigations and Prosecutions***

Independent involvement in the investigation of criminal conduct by police officers and oversight of the prosecution of these acts is a key component of democratic policing which appears to be lacking in Nigeria. Where acts of serious misconduct, including human rights abuse, are lodged with the police by an individual, organization or lawyer, the police themselves are charged with conducting an investigation. Where the alleged act of misconduct qualifies as a crime under the criminal code, an Investigating Police Officer (IPO) within the command is assigned to investigate and, where sufficient evidence is found, refer the case to the Director of Public Prosecutions. In practice, however, very few cases of serious misconduct such as torture have ever been fully investigated by the police or referred to the prosecutor's office for further action. This is due to an apparent lack of political will on the part of the police and, as the only channel for referral to the prosecutor, results in a serious accountability vacuum within the Nigerian Police Force.

In the rare cases where prosecution of a police officer commences, obstruction and lack of co-operation from the police have usually prevented the fair dispensation of justice. The Lagos State Director of Public Prosecutions told Human Rights Watch she knew of cases in which the accused police officer had gone missing or other police witnesses had refused to come forward to give evidence.<sup>147</sup> Similarly the Kano State Minister of Justice told Human Rights Watch researchers it is rare to get co-operation from the police. He said that they may carry out an investigation but refuse to comply with actions necessary to bring about prosecution, for example by withholding case files.<sup>148</sup>

When the Katsina schoolteacher, whose case is described on pages 39-40, filed a case against the DPO of Sabon Gari police station and the state commissioner of police at

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<sup>146</sup> Human Rights Watch interview, Enugu, March 4, 2005.

<sup>147</sup> Human Rights Watch interview with Mrs. Bola Ighile, Director of Public Prosecutions, Lagos State, March 8, 2005.

<sup>148</sup> Human Rights Watch interview with Alhaji Aliyu Umar, Attorney General and Minister of Justice, Kano State, March 15, 2005.

the Katsina High Court, there were several attempts by the state commissioner to persuade the family to drop the case. Human Rights Watch spoke to the teacher and two of his brothers, who told researchers that days after the incident the commissioner requested to see the family, asking them not to take the matter further and promising to transfer the DPO to another station. He even gave the teacher 10,000 naira (approximately US\$ 77) for medical treatment. He also authorized an internal investigation by the state criminal investigation department, the outcome of which has not been made public.<sup>149</sup>

According to the lawyer acting on behalf of the schoolteacher, the judge, Justice Abdullahi Yusuf, was absent from Katsina High Court on numerous occasions during pre-trial hearings. On May 27, 2004 the case was dismissed on technical grounds before it reached trial and therefore no evidence, such as affidavits and medical records, was submitted or witnesses called to testify.<sup>150</sup> The DPO has since been transferred to another state.

The Lagos State Ministry of Justice supplied Human Rights Watch with a list of ongoing state prosecutions against police officers. This list included nine cases, one of which was for death in custody, the remaining eight for unlawful killing.<sup>151</sup> A similar list was supplied by the Kano State Department for Public Prosecutions. According to this information, six officers were undergoing prosecution for death of suspects in their custody in Kano State. One case was seven years old; another was brought fifteen years ago.<sup>152</sup> Human Rights Watch has not been able to verify the current status of the cases mentioned in either list. Human Rights Watch also made repeated requests to the Inspector General of Police and the Force Provost Marshall in Abuja to obtain details of the number of officers nationwide under internal investigation and criminal prosecution for allegations of torture. At the time of writing the organization was still awaiting this information. When asked by Human Rights Watch, no government official or NGO representative could cite a single case of successful prosecution of police officers alleged to have committed torture against suspects in custody.<sup>153</sup>

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<sup>149</sup> Human Rights Watch interview, Kano, March 13, 2005 and telephone conversation May 18, 2005.

<sup>150</sup> Human Rights Watch telephone conversation July 7 and 11, 2005.

<sup>151</sup> List of nine cases of police officers bring prosecuted for extrajudicial execution or torture, provided by Lagos State Ministry of Justice, March 11,2005.

<sup>152</sup> List of six "police officers being prosecuted for death of suspect in their custody," and eighteen "police officers being prosecuted for accidental discharge," supplied by Department of Public Prosecutions, Ministry of Justice, Kano, March 22, 2005.

<sup>153</sup> Human Rights Watch interviews Enugu, Lagos, Kano and Abuja, March 2005.

In addition, victims do not receive recompense for the injuries inflicted by state officials. In the rare cases where a court awards compensation, local organizations report that the police refuse to pay the money. In July 2002, an Enugu High Court ruled that a sixteen-year-old school girl who was raped by the police in February 2002, be awarded 300,000 naira (approximately US\$ 2,303) in damages. Local NGOs and the lawyer acting on behalf of the victim told Human Rights Watch that, to date, the police have not paid the compensation to the girl or her family.<sup>154</sup>

For the few individuals prepared to seek redress, the official mechanisms that exist to carry out internal and external oversight functions are limited in number, acutely under-resourced and not well publicized to ordinary Nigerians.

### ***Police Complaints Bureau***

In 2003, police authorities announced the opening of the Police Complaints Bureau (PCB), where members of the public can report incidents of misconduct for internal investigation in each state command. They have since been expanded to each police station. In addition, the former Inspector General of Police introduced Human Rights Desks for each state command, charged with dealing with complaints relating specifically to human rights abuses by police. While Human Rights Watch welcomes the initiative in practice, the PCBs and Human Rights Desks, where they exist, are barely functional; they lack staff, training and office equipment. The Kano State commissioner of police told Human Rights Watch that the PCB at the state command does not receive many complaints and has never received a complaint of torture against a police officer.<sup>155</sup>

### ***The ‘Orderly Room Trial’***

The Nigerian police appear to have relied exclusively on internal ‘peer-view’ to ensure accountability for serious crimes including torture. In theory, once a formal complaint has been lodged by the Police Complaint Bureau, Human Rights Desk, or through a written petition to any level of police authority by an individual or organization, the closest superior officer is assigned to undertake an investigation. Cases of minor misconduct are dealt with immediate disciplinary action. In cases of serious misconduct the superior officer will authorize the peer-review of officers of junior rank.

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<sup>154</sup> Human Rights Watch interviews Enugu, March 3 and 5, 2005. See also, “How I was Raped by a Policeman,” *Tempo Magazine*, August 15, 2002, and “Judge Condemns Police Behavior in Rape Case,” *Vanguard*, July 16, 2002.

<sup>155</sup> Human Rights Watch interview with Ganiyu Dawodu, Kano State Commissioner of Police, Kano, March 14, 2005.

This process is known as an ‘orderly room trial’ and is an internal police trial, similar to military court martial, where the accused officer is cross-examined by peers. This is separate and parallel to a criminal investigation. For senior officers of Assistant Superintendent of Police rank and above, the Inspector General sets up panel of senior officers to hear the case. In both cases recommendations of disciplinary action such as dismissal, suspension or demotion are made before forwarding to the Police Service Commission for sanction. In reality however, local human rights organizations told Human Rights Watch researchers that few such peer reviews take place and where they do rarely result in disciplinary action or prosecution.<sup>156</sup>

Unusually, the officers accused of the rape of the Enugu schoolgirls were subject to an internal police investigation and the victims invited to testify at an orderly room trial at the force headquarters in Abuja. Following the investigation, the two junior officers were dismissed from the force and the senior officer suspended. Criminal proceedings also commenced and at the time of writing, all three are in Enugu Prison awaiting trial. A number of factors were responsible for police action on this case, notably the courage and perseverance of the victims and their families who have been determined to take the matter forward and were willing to speak publicly about their ordeal. Secondly, the advocacy strategy employed by the local human rights organization who took up the case has been highly successful. A widespread media campaign has generated much public sympathy and this, combined with continuous petitions to the federal government and police authorities, has kept the profile of the case high. Finally, petitioning other institutions such as the National Human Rights Commission and the Senate Committee on Police Affairs has brought additional pressure to bear on the police authorities, ultimately compelling them to conduct an internal investigation.

Whether the officers are prosecuted for the offence remains to be seen. Past trends across the country provide little reason for optimism. However, the case does show what can be achieved when local family members and human rights organizations take a coordinated and determined approach to seeking justice for torture by police personnel.

### ***The Police Service Commission***

The main body involved in the exercise of external oversight of the Nigerian Police Force is the Police Service Commission (PSC), an independent constitutional body established by law in 2001. The PSC is made up of a retired Justice of the Supreme Court or Court of Appeal, a retired Police Officer not below the rank of Commissioner, and four members of civil society. Section 6 of the Police Service Commission Act

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<sup>156</sup> Human Rights Watch interviews Lagos, March 7 and 10, 2005, Kano, March 11, 2005.

grants the body responsibility for the appointment, promotion, discipline and dismissal of all Nigerian police officers below the rank of Inspector General.<sup>157</sup>

According to the powers granted in the Act, the Police Service Commission is mandated to conduct investigations into cases of misconduct by the police in order to recommend internal disciplinary action against officers found negligent. Like the 'orderly room trial' process, this is separate from and should in principle work parallel to a criminal investigation which can only be undertaken by the police themselves. The PSC has no authority to refer cases to the prosecutor. In reality, the commission lacks the political will to conduct investigations into cases of misconduct. All complaints of police misconduct, including serious human rights abuse, are currently referred to the police for further investigation. In 2004 the Police Service Commission received over fifty complaints of ill-treatment by the police from members of the public or human rights organizations, all of which were forwarded to the Inspector General of Police.<sup>158</sup> In addition the PSC can recommend internal disciplinary action once an officer has been charged or convicted of a crime, but has rarely fulfilled this function. Rather the PSC merely ratifies recommendations of disciplinary action which have been made by Assistant Superintendent of Police to Deputy Inspector General.<sup>159</sup>

Many factors inhibit the exercise of the powers of the PSC, including lack of trained staff and equipment, all factors which could be addressed through greater financial support.<sup>160</sup> There should be an appropriately resourced unit within the Police Service Commission to conduct their own independent investigation of crimes by police officers. Crucially this unit must be vested with the power to refer cases for prosecution. This would thus put in check any attempt by the police to derail an investigation of one of their own.

### ***National Human Rights Commission***

The National Human Rights Commission (NHRC) is a parastatal body established in 1995 and charged with the promotion and protection of human rights in Nigeria. It is granted powers to monitor and investigate cases of human rights violations, including torture. The commission is fundamentally handicapped in two ways: it is acutely under-resourced, and lacks judicial power to enforce redress and can only make recommendations to the government. It is thus unable to effectively carry out its

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<sup>157</sup> Police Service Commission (Establishment) Act, 2001.

<sup>158</sup> Human Rights Watch interview with Police Service Commission, Abuja, March 16, 2005.

<sup>159</sup> Human Rights Watch telephone conversation, July 15, 2005.

<sup>160</sup> Human Rights Watch interview, Abuja, March 16 2005.

functions. Despite efforts to publicize its role, the NHRC is still relatively inaccessible to ordinary Nigerians. Many people are not aware of its existence and regional offices are understaffed. This is reflected in the low number of complaints of torture that the commission receives. For example it received just twenty-five cases of torture by law enforcement agents in 2003.<sup>161</sup>

Once commission investigators have verified the facts of each case, details are sent to the Inspector General of Police via a Police/Human Rights Commission committee. Held at regular intervals, this committee provides a formal channel through which cases of torture and other abuse can be directed to the police authorities for the purpose of recommending internal discipline. Senior commission staff told Human Rights Watch that through their intervention a number of officers have been dismissed or given corporate sanction for perpetrating abuses, including torture, although none have been prosecuted.<sup>162</sup> Human Rights Watch welcomes this mechanism to raise cases of abuse directly with the police, but is concerned that the NHRC's lack of judicial authority reduces the legal avenues available to the public and thus the ability to secure prosecutions of the perpetrators.

### ***Inquests and Autopsies***

Coroner laws, which exist in every state in Nigeria, provide a system for investigating and establishing the cause of unnatural, sudden or violent deaths, including deaths in police custody.<sup>163</sup> In reality however, coroner laws are not implemented and there are few designated coroners. It is extremely rare for inquests and autopsies to be carried out for detainees who die in police custody. A senior forensic pathologist and head of department at a large Nigerian hospital told Human Rights Watch he had never attended an inquest of a prisoner and that in his view, "the legal investigation of death is non-existent."<sup>164</sup>

A number of factors have contributed to this. Firstly, the police themselves deliberately fail to report deaths in custody as confirmed to Human Rights Watch by lawyers, human

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<sup>161</sup> Human Rights Watch interview with senior staff in the investigation department of the National Human Rights Commission, Abuja, March 17, 2005.

<sup>162</sup> Human Rights Watch interview with Tony Ujukwu, Special Assistant to the Executive Secretary, National Human Rights Commission, Abuja, March 17, 2005.

<sup>163</sup> For further information on the coroner system in Nigeria see, "The Coroner's Place: using coroners to uncover facts about extra-judicial killings," by Access to Justice, July 2004. For a detailed analysis of the Lagos State coroners law see, "A memorandum on reform of the Coroners Law of Lagos State", by Access to Justice, October 2002.

<sup>164</sup> Human Rights Watch interview, March 2005.

rights organizations and hospital staff. An employee of a large Nigerian hospital told researchers:

It is compulsory for the police have to fill in a form when they bring a corpse and the hospital has to arrange a post mortem. This usually only happens when the relatives insist. Mostly the police just say that they happened to die, for example, they found the body on the road or that they died of an illness in custody. They never say it was because of their interrogation. However, the types of injuries I see are not from prolonged illness. I see bruises all over the body and evidence of whipping.<sup>165</sup>

Secondly, victims' families lack awareness of their legal right to know the cause of death, or what an inquest or autopsy is, making it easy for the police to evade accountability. Thirdly, harassment or intimidation by the police, coupled with a lack of faith in the criminal justice system, means that only in very few cases do relatives pursue legal redress for the unlawful killing of a family member. Fourthly, the additional time and bureaucracy taken to carry out an autopsy, especially where Muslim rites require burial within twenty-four hours of death, further discourages families.<sup>166</sup> Finally, hospitals are faced with a shortage of qualified forensic pathologists to carry out autopsies and an acute lack of specialist equipment, such as refrigeration units to store corpses, in hospital mortuaries.

### ***Societal Attitudes to Torture and Police Abuses***

One of the most challenging obstacles to the eradication of torture is the deeply engrained societal attitude to violence and the powers of the police. For many Nigerians, who have experienced years of oppression and brutality by military rulers, the use of violence by the institutions of the state is accepted, even seen as normal. Even where they know the police action was wrong and illegal, they appear to feel powerless to register a complaint or seek redress. This attitude was evident in the course of interviews with victims, who time and time again expressed a resignation to their fate. The majority of people, when asked if they would complain to the police, responded with comments such as: "who am I to complain?," "I have no power, what would I do there?," "It has happened, there is nothing I can do, I have left it all to God," or "I don't have power so I can't do anything to challenge the police." It was also evident in attitudes within the

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<sup>165</sup> Human Rights Watch interview, March 2005.

<sup>166</sup> Although no accurate statistics are available, it is estimated that approximately 50 percent of Nigeria's population are Muslim.

police force, where the perpetrators themselves see torture as acceptable. The Kano State commissioner of police even told Human Rights Watch that members of the public would recommend a suspect is tortured.<sup>167</sup>

One human rights activist summarized: “Firstly, the victims themselves hardly complain as people presume it is the normal thing, the normal way of obtaining information. When they come to complain about arrest for example, only when you ask them will they tell you they were tortured. They don’t think it is wrong. Secondly, the police themselves see torture as a normal way of doing their job. Then they deny when you confront them. When they do admit, they say it was necessary to get the confession.”<sup>168</sup>

## **XI. Police Reform**

The transition from military rule in 1999 marked the first real efforts or opportunity to undertake reform of the Nigerian Police Force. The Police Affairs Minister made a series of announcements in 2000 signaling the governments’ plans to reorganize the force: “The image of the new police this administration wants to build is that of a courteous, polite, well disciplined and well behaved police officer and men who are truly friends of the people.”<sup>169</sup> Initial measures undertaken to realize this were a massive recruitment drive to increase the force strength, the promotion of senior police officers and members of the rank and file, the provision of training and development facilities and improvements in the salary and welfare package for officers.

In 2000 the Ministry of Police Affairs produced a five-year development plan for the police force and with significant support from the United States and British governments, drew up a detailed strategic plan to guide its implementation. This included the drafting of a mission and values statement for the Nigerian Police Force and the identification of six organizational goals and strategies to achieve them. Covering a diverse range of issues the stated goals included the implementation of community policing, the creation partnerships with civil society, improvement in internal and external communications of the force, the

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<sup>167</sup> Human Rights Watch interview with Ganiyu Dawodu, Kano State Commissioner of Police, Kano, March 14, 2005.

<sup>168</sup> Human Rights Watch interview, Enugu, March 5, 2005.

<sup>169</sup> “Reorganisation of Police Force Underway,” *Post Express*, July 29, 1999, and “Jemibewon to Overhaul Police Force,” *The Guardian*, July 15, 1999.

provision of adequate resources, improvements in leadership, and the reduction of fear and violent crime in communities.<sup>170</sup>

In 2000, also with the support of the United States Office for Transition Initiatives, a mechanism to ensure input on police reform from civil society was established. The Network on Police Reform in Nigeria (NOPRIN) aimed to identify issues for reform, provide civil society input to the police reform process and improve police and civil society relations.<sup>171</sup> The network is still in existence today and continues to play an important role in policy discussions on police reform.

The reform efforts intensified during the tenure of the immediate past Inspector General of Police Tafa Balogun, but they were accompanied by an increasingly belligerent policing strategy. On his appointment to the post in 2002, Tafa Balogun announced an eight-point plan aimed primarily at combating rising crime and the resultant insecurity felt across Nigeria, particularly in urban centers. The central pillar of his anti-crime strategy was the introduction of “Operation Fire-for-Fire,” which, while outlining a policy that was technically within officers’ right to act in self-defense, raised concerns that the police would take it as an invitation to engage in disproportionate use of force.<sup>172</sup> With social unrest and confrontations between the police and criminals showing no signs of abating, Balogun in October 2002, further reiterated the orders. He stated: “Shoot and kill whenever they want to attack your barracks...All I want to hear is that as they were trying to burn a police station or barracks that no fewer than a certain number, say forty-five, were killed in the process.”<sup>173</sup>

Continuing the strategy of his predecessor, Balogun in 2002 pledged to improve the welfare package for officers, promoted more than 70,000 officers, ensured the payment of one year’s salary arrears, and ordered the building of supplementary barracks accommodation.<sup>174</sup> To address the continued shortage of personnel, a campaign was launched to recruit 40,000 new officers per year. Under pressure from the federal government he undertook some efforts to tackle low-level corruption, in particular the ubiquitous roadside checkpoints used to extort money from passing motorists.

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<sup>170</sup> “Nigeria Police Force, Police Transformation in Nigeria, the Strategic Planning Process,” United States Agency for International Development, Office of Transition Initiative and United Kingdom, Department for International Development, December 14, 2000.

<sup>171</sup> Further information about NOPRIN can be found at [www.cleen.org/noprin.html](http://www.cleen.org/noprin.html)

<sup>172</sup> “Human Rights Group criticizes Fire-for-Fire,” *Daily Trust*, April, 2002, “Student shootings spark concern over Nigerian police tactics,” Agence France-Presse, June 24, 2002 and U.S. Department of State, Nigeria Country Report on Human Rights Practices in 2002, 2003 and 2004.

<sup>173</sup> “Shoot Anti-Police Rioters On Sight, Law Enforcers Told,” IRIN, October 21, 2002.

<sup>174</sup> “We’ve restored sanity,” *Newswatch*, January 26, 2003.

However, this initiative appeared to have little effect. In July 2004 he announced that 900 policemen had been dismissed from the service for involvement in extortion.<sup>175</sup> In 2003 Balogun also undertook a number of other measures to improve the police's relationship with the general public. Police Complaints Bureau and Human Rights Desks were established in all state commands and with the support of the British government, a pilot community policing project was introduced in Enugu State, described in further detail below.

In January 2005, Tafa Balogun was forced to resign after it was revealed that he was under investigation by the Economic and Financial Crimes Commission (EFCC). Three months later the former Inspector General was arraigned before an Abuja High Court on ninety-two counts of corruption and accused of stealing over thirteen billion naira (US\$ 98 million) of public funds. He was replaced by Sunday Ehindero who is the Acting Inspector General of Police at the time of writing. On his appointment Ehindero took immediate action on two key issues that appeared designed to improve the public image of the force. Firstly, he scrapped the notorious "Operation Fire-for-Fire," stressing the need to move away from "authoritarian and symbolic justice" to a more accountable and responsive force. A new slogan "To serve and protect with integrity" was chosen to reflect this shift.<sup>176</sup> Days later he announced the elimination of police roadblocks, which had become synonymous with police extortion.<sup>177</sup> Despite this declaration, local NGOs and the media report little evidence of a reduction in police checkpoints and roadside extortion.<sup>178</sup>

In addition he announced an ambitious ten-point program of reform to address what he referred to as the perceived shortcomings of the Nigerian Police Force. The program is divided into ten plans of action on a broad range of issues, such as improving the intelligence and investigative capacity of the police, combating violent and economic crimes, conflict prevention, community policing, improving relationships with the general public, anti-corruption and improving the salary and welfare package of officers. However there was no mention of trying to improve human rights or reduce torture or deaths in police custody as being part of the ten-point program.

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<sup>175</sup> "Extortion: 900 Policemen Fired," *This Day*, July 21, 2004.

<sup>176</sup> "Address delivered by Sunday Ehindero, Acting Inspector General of Police to the maiden conference of senior police officers at Force Headquarters, Abuja," 25 January 2005, and also "IG scraps Operation Fire-for-Fire," *Punch*, January 26, 2005.

<sup>177</sup> "Camps to replace roadblocks – Ehindero," *This Day*, February 2, 2005.

<sup>178</sup> See for example, "Nigeria Roads Shows Corruption's Depth," Dow Jones Newswires, April 25, 2005, "An Encounter with Nigeria's Traffic Police," BBC News Africa, June 2, 2005, and "A Police of Shame," *This Day*, June 19, 2005.

Human Rights Watch was encouraged by initial discussions with the Acting Inspector General in March 2005. He talked with apparent sincerity about the need to change the philosophy and attitudes within the force and his commitment to reform. Significantly, he was one of the only senior police officials to acknowledge to Human Rights Watch that police torture existed and was a problem. Human Rights Watch welcomed his insistence that the perpetrators of alleged human rights violations should be first internally investigated and, if found guilty, taken to court for prosecution. However, it remains to be seen whether he is willing or able to live up to these promises. When Human Rights Watch asked the Acting Inspector General for further details of his program of reform, in particular on how it would be implemented, he was vague and unable to provide substantive information.<sup>179</sup>

While it is too early to judge the impact of these proposed reforms, looking back at efforts since 1999 and comparing the rhetoric to the reality, it is difficult to observe any significant changes in the conduct and attitudes of the Nigerian Police Force. The reform initiatives have, to date, tended to be superficial and disjointed. None have acknowledged the existence of the problems of torture and deaths in custody, let alone prioritized human rights protection. While there have been improvements in the salary and welfare package for officers and an increase in the size of the force, local human rights organizations and lawyers say there has been no marked reduction in the level of human rights violations, such as torture, killings and extortion, committed by the police since 1999.

For the Acting Inspector General's program to be successful it must tackle not only the structural and legal aspects of reform, but also seek to change deeply held attitudes within the force. The police authorities must draw up a detailed and time-bound implementation plan to show how the 10-point program will be implemented. Most importantly, if the program is to bring about true transformation of the force and challenge the many vested interests opposing change in Nigeria, it must be given explicit backing -- both political and financial -- from the highest levels. President Obasanjo must publicly endorse efforts to reform and fund the development of the police with the same zeal he has thrown behind his anti-corruption drive. Obasanjo's prominent role on the regional and international stage, particularly as a continental peacemaker, does not sit comfortably alongside the reputation of his police force at home.

Concretely the Nigerian government must provide more funding to the police and judiciary; in particular they must increase assistance to the Police Complaints Bureau and

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<sup>179</sup> Human Rights Watch interview with Sunday Ehindero, Acting Inspector General of Police, Abuja, March 17, 2005.

the Legal Aid Council to improve access to justice for ordinary Nigerians. It must also support community policing initiatives countrywide, improvements in police training and a nationwide campaign to raise awareness that torture and other abuses are forbidden under Nigerian and international law.

### ***Review of the Police Act***

The Nigerian Police Force is governed by a colonial law, which has seen no comprehensive review since its initial promulgation in 1943. A recent initiative to review the Police Act is therefore timely and will provide a legal framework for the ongoing reform initiatives outlined above. The review started in November 2004 and is being undertaken by an interagency committee comprised of police, government and civil society representatives. So far several stages of public consultation and a legal audit of all the laws engaging the police have taken place. A draft bill will be discussed and approved by the interagency committee before final presentation to the House of Representatives towards the end of 2005.<sup>180</sup>

A principal objective of the review must be to ensure the new law is compatible with international human rights standards, in particular the United Nations (U.N.) Code of Conduct for Law Enforcement Officials and the fundamental rights provisions of the Nigerian constitution.

One of the key omissions from the current act is a code of conduct that includes the prohibition of torture. The new law should contain a full code of conduct in line with the U.N. Code of Conduct for Law Enforcement Officials. Article 5 of the U.N. Code of Conduct states, “No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.” The new law must also include a definition of torture, compatible with that in the U.N. Convention Against Torture, which Nigeria has signed and ratified.

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<sup>180</sup> For a discussion of the full-range of issues, not just those relating to torture, discussed by the interagency committee see, “Report of the one-day interactive forum on the review of the Nigerian Police Act organized by the House of Representatives Committee on Police Affairs in Collaboration with the CLEEN Foundation and the Open Society Justice Initiative.”

As Human Rights Watch has documented, there is a demonstrable link between unlawful and arbitrary arrest and the torture and ill-treatment of detainees. It is therefore essential that the sections of the law relating to arrest are redrafted to incorporate safeguards, including strict guidelines on what constitutes a warrant for arrest, thresholds of proof and judicial review that will prevent the misuse of this provision. In addition, measures to improve the effectiveness of the Nigerian Police Force, such as training, upgrading the requirements for recruitment and performance measures and the establishment of juvenile and women's units, must also be included. Incorporating positive policy initiatives, such as community policing, are also essential to guarantee the long-term sustainability of such programs and insulate them from the whims of political leadership.

Perhaps the thorniest issue of the review is that of the political accountability of the police. The Inspector General of Police is appointed and accountable to the President who has overall operational control of the force. This clearly compromises the independence of the police force, leaving it open to political manipulation by the executive arm. Amending these sections to grant the legislature and Police Service Commission a role in screening, confirming and, in cases of serious misconduct, removing, the Inspector General is necessary to extend accountability and promote accountable policing in Nigeria. It is vital that members of the National Assembly endorse these amendments to ensure the new bill contains stringent safeguards to protect human rights and provides a positive legal framework for meaningful police reform in Nigeria.

### ***Donor Governments' Support for Police Reform***

The British and United States governments are among the principal donors providing multi-million dollar support for police reform initiatives in Nigeria. Both governments have been closely engaged in supporting reform efforts since the transition from military rule in 1999.

The British Department for International Development (DFID), funds a thirty million pound (US\$ 55.5 million) Security Justice and Growth Program which began in 2002 under its former title "Access to Justice." Managed by the British Council, the five year program has three components, one of which concentrates on enhancing security and safety in Nigeria through collaboration with the Nigerian Police. The aim of the collaboration is to develop the quality of police service delivery, improve the

effectiveness of informal policing systems, and help develop processes for conflict prevention, resolution and management.<sup>181</sup>

The main vehicle for this collaboration is a program of community policing described as a holistic approach to police reform.<sup>182</sup> Formally launched by President Obasanjo in April 2004, the community policing program aims to transform the culture and organization of the police, improve the police force's relations with ordinary citizens and the quality of the service delivered. According to the community policing project plan, the six key components of the program are: creating awareness of community policing both within the force and wider society; introducing intensive skills development and leadership training of local police officers; examining police structures and organization; reviewing training curricula and methodologies of the police; developing intelligence led policing and the use of new technology; and finally, reviewing legislation and procedures.<sup>183</sup> The program is being piloted in Enugu State, with plans to extend the project to five other states in 2005.

A core part of the British Government's project involves intensive training of selected police officers, known as Community Policing Developers (CPDs). The training aspires to bring about major attitudinal change through leadership training and skills development. To date, eighty-four officers have been trained as CPDs in Enugu. In addition, the project aims to develop the Human Rights Units in each police division of Enugu. To this end a training program for police investigators to improve their effectiveness at managing complaints, victims, witnesses, suspects, and case files has been designed and initial training is underway.

Through the focus on training and attitudinal change, this program could have an important role to play in reducing human rights violations, such as torture, by the Nigerian Police Force. Careful monitoring and evaluation by independent experts will be crucial to determine the success of the project, especially considering the difficulty in assessing changes in attitude and culture. Human Rights Watch is concerned that a preliminary evaluation conducted in early 2005 by a team of local and international consultants, just months after the pilot project began, may have jumped to conclusions too soon. The preliminary findings indicate reduced levels of police corruption,

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<sup>181</sup> British Council Security Justice and Growth Program, Nigeria Police Community Policing Document and email correspondence with Blair Davies, Police Advisor, British Council Security Justice and Growth Program, May 3, 2005.

<sup>182</sup> Human Rights Watch interview with Blair Davies, Police Advisor, British Council Security Justice and Growth Program, Abuja, March 17, 2005.

<sup>183</sup> Community Policing Project Plan: Report and Recommendation on the Implementation of Community Policing in Nigeria, February 18, 2004.

reduction in the fear of crime, general improvements in the care and custody of prisoners and improved relations between the police and public.<sup>184</sup>

However, the manner in which the evaluation was conducted suggests a superficial and somewhat simplistic approach. The review was confined to interviews with police officers and members of the public, and did not, for example, seek to conduct spot checks of police stations or detention facilities to monitor more objectively improvements in conduct or behavior. Unless such reviews are conducted thoroughly, they risk the danger of overlooking the deeper structural problems and could jeopardize the long-term success of the project. There is also concern that unless the project is accompanied by wider structural changes, such as changes to the physical environment in which the police operate, increases in funding for police activities and commitment to change from the highest levels of the force, the overall impact will be limited.

In July 2002 the United States and Nigeria signed a comprehensive law enforcement assistance and cooperation agreement. A grant of US\$ 3.5 million was dedicated to assist law enforcement agencies including the Nigerian Police Force, the NDLEA, the EFCC and Independent Corrupt Practices Commission. US\$ 2.6 million of the overall grant funds police reform through provision of technical assistance, training and equipment.<sup>185</sup> According to US Embassy officials the budget for the police assistance program has increased to US\$12.65 million in 2005.<sup>186</sup> Like the British government program, there is a strong emphasis on community policing to improve police and community relations and a pilot project is being run in Kaduna State. There is also support for curriculum development and basic training for new recruits to the force. This was carried out for nine months at the Kaduna Police Training College and there are plans to extend to colleges in Kano, Maiduguri and Enugu.<sup>187</sup>

Alongside and as a complement to funding and implementing such police reform programs, the British and the U.S. governments, along with other members of the international community, has engaged in dialogue with the Nigerian police and government. The international community has a responsibility to raise the issue of police abuses, including torture and deaths in custody, directly with President Obasanjo and the Acting Inspector General of Police. Both the United States and the British governments

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<sup>184</sup> "Evaluation of impact to date of the Enugu community policing project," Security Justice and Growth Program, document given to Human Rights Watch in March 2005.

<sup>185</sup> "Ambassador Howard F. Jeter's Remarks At Signing Ceremony for INL Letter of Agreement On Law Enforcement Assistance and Narcotics Control," July 2, 2002, found at [www.usembassy.state.gov/nigeria/](http://www.usembassy.state.gov/nigeria/)

<sup>186</sup> Email correspondence with Richard Roseing, United States Embassy in Abuja, June 24, 2005.

<sup>187</sup> Email correspondence with Russell Hanks, United States Embassy in Abuja, May 12, 2005.

have repeatedly assured Human Rights Watch that they are voicing concerns about human rights issues with the authorities. However, in the face of continued human rights violations by the security forces, including widespread torture and deaths in custody, this behind the scenes diplomacy has proved to be largely ineffective.

Human Rights Watch calls on these governments to review this approach. The international community, in particular the British and United States, must take a stronger public stance and put human rights and the promotion of the rule of law in Africa's most populous nation at the heart of diplomatic relations. Furthermore, any future assistance to the police or other law enforcement agencies in the form of funding, equipment or training must be conditioned to measurable improvements in this area, for example the investigation of reports of torture and deaths in custody, the suspension of officers alleged to have committed torture and killings and the prosecution of those against whom there is substantial evidence.

## **XII. Conclusion**

Six years after the end of military rule in Nigeria, the brutal techniques long employed by law enforcement agencies have not abated. The testimonies of the victims interviewed, in particular their acceptance of police brutality, illustrate a deeply embedded culture of violence that stems from the use of the police as a tool of control and oppression by colonial and military rulers alike. President Obasanjo's government has done little to change this culture. Impunity for torture and other abuses continues to embolden the perpetrators while internal and external oversight bodies within the police force are poorly funded and staffed. This serves to discourage victims from seeking accountability for the abuses they have suffered. Meanwhile, police reform initiatives have failed to prioritize human rights protection and ensure there are adequate mechanisms to meaningfully address torture and deaths in custody.

The Nigerian President and Inspector General of Police must take concrete steps to show they are serious about eradicating torture in Nigeria. Ending police abuses and implementing meaningful reform must be approached with the same zeal as the government's anti-corruption crusade. Only with federal government support for genuine police reform and a nationwide public awareness campaign against police abuses can attitudes towards police brutality be changed. Thorough and independent investigations of all allegations of torture must be conducted and steps taken to ensure criminal prosecution of the perpetrators and justice for the victims and their families.

### **XIII. Acknowledgements**

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