



“IF YOU SEE IT, YOU WILL CRY”

LIFE AND DEATH IN GIWA
BARRACKS

AMNESTY
INTERNATIONAL



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Cover photo: Children detained at Giwa barracks in a queue during their release ceremony, 12 February 2016.
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EXECUTIVE SUMMARY

Since January 2016 at least 149 people have died in the military detention facility at Giwa barracks, Maiduguri. Their bodies were deposited at a mortuary in Maiduguri and then buried in the city's cemetery. This represents a significant increase in the rate of deaths in the barracks compared with the second half of 2015. Urgent action is needed to stop this trend and end the death of detainees in Giwa barracks.

Among the dead were at least 12 children and babies, including two girls of approximately two years and five years old, and the others, all boys, were aged five months, one year (four boys), two years, three years, four years, five years and one boy of approximately 15 years. Witnesses reported that all these have died in Giwa barracks between February and April 2016.

Children under five years old were detained in extremely overcrowded and insanitary women's cells, containing at least 250 women and teenage girls, and many small children. Many of the young children were detained when their mothers were arrested, while others were born in detention. Two witnesses told Amnesty International that three of the babies and children may have died as a result of measles, or other communicable diseases.

While Amnesty International is unable to confirm the exact causes of death of detainees, it is likely that starvation, dehydration and disease, all linked to overcrowding at the detention cells in Giwa Barracks may have contributed to this surge in number of deaths in custody. Witnesses told Amnesty International that no autopsies have been done and according to Amnesty International, no investigation into death in custody has been carried out.

In all cells, detainees were subjected to conditions which amounted to cruel, inhuman or degrading treatment (ill treatment). Witnesses describe cells too crowded to lie down properly and that they were provided with insufficient amounts of food and water, particularly in the men's cells. Instead of toilets, there were two communal buckets in each cell for faeces and urine. Cells were infrequently cleaned and detainees were rarely allowed to wash. In these conditions, many detainees fell ill. Access to medical assistance was scant, although women and children appear to have had better access to medical personnel. According to witness testimony, the majority of detainees were men and conditions were worse in their cells. Since January 2016, 136 men and one woman detained in Giwa barrack have been reported dead.

Amnesty International believes that by March 2016 at least 1,200 people were detained at Giwa barracks. The organisation has also documented evidence that indicates the detention of more than 120 boys, between five and 16 years old, in a separate cell at Giwa barracks. As with all detainees at the barracks, these children were held incommunicado. They were not even allowed access to their relatives detained in other cells in the same barracks. Nor were they allowed to go outside of their cell – only sporadically when the soldiers called them out for counting.

Recent mass arrests are partly responsible for overcrowding in the cells. Since March 2015, when the Nigerian military regained control of towns formerly controlled by the armed group

Boko Haram, Amnesty International has documented several instances of mass arrests of hundreds of young men who fled to the safety of recaptured towns, including Banki and Bama, Borno state, in 2016. Witness testimony suggests that these arrests were arbitrary, largely based on random profiling of men, especially young men, rather than on reasonable suspicion of having committed a criminal offence.

Amnesty International published a report on war crimes committed by the Nigerian military in June 2015.¹ The report documented mass, arbitrary arrests, inhumane detention conditions and thousands of deaths in military detention. In February 2016, the Chief of Army Staff told Amnesty International that conditions in military detention were significantly better than documented in the report. He stated that Giwa barracks and other military detention facilities in the north-east are 'holding centres' and suspects are rapidly transferred to a detention facility outside the north-east.

While Amnesty International cannot verify the extent of improvements of detention conditions by the military, largely due to lack of access to detention facilities, the organisation has documented some evidence of limited steps taken to improve conditions in Giwa barracks during 2014 and 2015. In particular, the military police seems to have taken over the management of the detention facility at Giwa barracks and detainees were provided with food three times per day, blankets and mats to sleep on, and increased access to sanitary facilities and medical assistance. However, recent mass arrests seem to have erased most of these gains. Evidence recently obtained by Amnesty International suggests that detainees are held for several months in Giwa barracks in conditions which fall far short of international minimum standards and appear to have resulted in the deaths of at least 149 people so far this year.

After Amnesty International published its report in June 2015, President Buhari, as well as several high ranking military officials, promised that the new administration would uphold human rights and investigate those responsible for war crimes and other crimes under international law. However, no steps have been taken so far to initiate independent, impartial and effective investigations or prosecutions of crimes committed. Without urgent action to remedy these recent violations and investigate those responsible for all violations, such deaths are likely to continue.

The Nigerian government must immediately close military detention facilities and either release or transfer detainees to civilian authorities. Children below the internationally accepted minimum standard age for criminal liability must be released. The government must urgently introduce systems to ensure the safety and well-being of children released from military detention. The government must ensure that, in all detention facilities, detainees have access to adequate food, water and medical assistance.

Detainees must also be brought to court, have access to their families and lawyers, and be able to contest the legality of their detention. Special safeguards must be put in place for the

¹ Amnesty International "Stars on Their Shoulders. Blood on Their Hands. War crimes committed by the Nigerian military" 3 June 2015 (AFR 44/1657/2015). Available from <https://www.amnesty.org/en/documents/afr44/1657/2015/en/>

detention and trial of children reasonably suspected of having committed a criminal offence. The government must investigate all deaths in detention, to establish the cause of death and potential criminal responsibility. The bodies of the deceased should be returned to their families and their families should be officially informed of what happened to their relative.

RESEARCH METHODOLOGY

This briefing is based on 15 interviews, conducted in 2016 by phone with former detainees, their relatives, eyewitnesses, human rights activists, and medical professionals. Amnesty International interviewed an additional 11 former detainees between June and December 2015. Amnesty International received 17 photos and videos showing bodies of detainees deposited at a mortuary by soldiers from Giwa barracks. These were analysed by Amnesty International staff and an independent forensic expert. Amnesty International requested and analysed available satellite images of Giwa barracks and Gwange cemetery, to corroborate witness testimony.

Amnesty International sought replies to these findings from Nigerian authorities in letters addressed to the Chief of Army Staff,² the Attorney General of the Federation³ and Chief of Defence Staff⁴. The Chief of Army Staff replied in writing on 20 April 2016, asking Amnesty International to refer all correspondence to the office of the Attorney General. The letter did not comment on the substance of Amnesty International's findings. At meetings with the Chief of Army Staff and the Minister of Interior in February 2016, Amnesty International delegates requested access to Giwa barracks and other military detention facilities. Amnesty International followed these meetings with formal written requests to the Chief of Army Staff, Minister of Interior and National Security Advisor on 3 March 2016.⁵ Amnesty International previously sent its reports to these officials and these letters recalled Amnesty International's concerns and recommendations relating to detention condition. No response to those letters was received at the time of publication, and access to the facilities was not granted.

The names of all witnesses have been changed for their safety.

This briefing builds on years of research on the situation in north-east Nigeria, conducted through regular visits to Maiduguri and the region. Amnesty International has thoroughly documented and repeatedly condemned war crimes, crimes against humanity and other crimes under international law committed by the armed group Boko Haram.⁶ It has also documented war crimes committed by the Nigerian military in the context of its response to Boko Haram.

² Amnesty International letter, dated 12 April 2016, Ref: TG AFR 44/2016.016.

³ Amnesty International letter, dated 27 April 2016, Ref TG AFR 44/2016.017.

⁴ Amnesty International letter, dated 27 April 2016, Ref: TG AFR 44/2016.018.

⁵ Amnesty International letters, Ref: TG AFR 44/2016.012, TG AFR 44/2016.013, and TG AFR 44/2016.015.

⁶ Amnesty International "'Our Job is to Shoot, Slaughter and Kill' Boko Haram's reign of terror in north-east Nigeria" 14 April 2015 (AFR 44/1360/2015). Available from <https://www.amnesty.org/en/documents/afr44/1360/2015/en/>.

BACKGROUND

Amnesty International has repeatedly raised concerns about conditions in Giwa barracks and other military detention facilities since 2013.⁷ In June 2015 Amnesty International published a report on war crimes by the Nigerian military.⁸ The report documented mass, arbitrary arrests, inhumane detention conditions and the death in custody of more than 7,000 men and boys, their deaths often unrecorded and almost never investigated.⁹

Based on eyewitness testimonies and analysis of video and photographic evidence, as well as information contained in military reports, Amnesty International believes that the main causes of deaths in detention were starvation, thirst, severe overcrowding that led to spread of diseases, torture and lack of medical attention, and the use of fumigation chemicals in unventilated cells.

The highest death rates were recorded in Giwa barracks in May, June and July 2013, where up to 180 deaths were recorded on some days. In June alone, more than 1,400 corpses were delivered from the barracks to one of the mortuaries in Maiduguri. Internal military documents confirm that suspects died in Giwa barracks on a regular basis.

From Giwa barracks, soldiers took the bodies of dead detainees in a military ambulance to mortuaries in Maiduguri before the Borno State Environmental Protection Agency (BOSEPA) buried them in unmarked graves in Gwange cemetery, Maiduguri, and other unknown locations. No autopsies were conducted and the families of the deceased were not notified of their relative's fate.

After Boko Haram fighters attacked Giwa barracks on 14 March 2014 and most detainees either escaped or were recaptured and executed, the number of detainees decreased significantly, and so did the number of deaths. In April and May 2014, Amnesty International believes that only 20 detainees died in Giwa barracks. By early 2015, the number of corpses delivered to the mortuary seem to have reduced to 3 to 10 corpses a week. Fewer detainees meant less pressure on the food and water made available to detainees and thus reducing the risks caused by overcrowding.

Amnesty International has also documented a pattern of arbitrary arrests and unlawful detention by the Nigerian military in the past. In its June 2015 report, Amnesty International described how Nigerian troops, often with the support of Civilian Joint Task Force (CJTF)¹⁰

⁷ Amnesty International "Nigeria: Authorities Must Investigate Deaths of Boko Haram Suspects in Military Custody" 15 October 2013 (AFR 44/025/2013). Available from <https://www.amnesty.org/en/documents/afr44/025/2013/en/>.

⁸ Amnesty International "Stars on Their Shoulders. Blood on Their Hands. War crimes committed by the Nigerian military".

⁹ P. 58 – 75, Amnesty International "Stars on Their Shoulders. Blood on Their Hands. War crimes committed by the Nigerian military".

¹⁰ A civilian militia set up by Borno state authorities in 2013 to work with security forces. See p. 24–26,

members, arbitrarily arrested at least 20,000 people since 2011. Most of those arrested were young men, although Amnesty International has recorded arrests and detention of boys as young as nine years old. The vast majority of arrests carried out by the military appeared to be entirely arbitrary, often based solely on the dubious word of an informant. On numerous occasions, particularly following Boko Haram raids, soldiers have gone to the town or village, rounded up hundreds of men and boys and taken into custody those identified as Boko Haram by informants. Military sources repeatedly told Amnesty International that the informants were unreliable and often provided false information in order to get paid.



Borno State Environmental Protection Agency truck. These trucks were used to transport corpses from the mortuary to Gwange cemetery, Maiduguri. March 2014. © Private

Amnesty International "Stars on Their Shoulders. Blood on Their Hands. War crimes committed by the Nigerian military".

BABIES AND YOUNG CHILDREN IN MILITARY CUSTODY

DEATH OF BABIES AND CHILDREN

Since February 2016, at least 12 babies and children – 10 boys and two girls - have died in Giwa barracks. Witnesses estimated that four of the boys were one-year-olds, and the others were five months, two years, three years, four years, five years and 15 years old respectively. The girls were approximately two years and five years old. Witnesses saw the bodies of children who died in Giwa barracks between 30 March and 5 April 2016 (four bodies) and between 18 and 26 April 2016 (five bodies). Amnesty International also received photos and videos of two of these bodies.¹¹

Two former detainees reported that two boys and a girl, between one and two years old, died in February 2016. Aisha Bubakar (not her real name), a 40-year-old woman detained in Giwa barracks for more than four months, told Amnesty International that many children contracted measles in the cells, “Measles started when hot season started. In the morning, 2 or 3 [were ill], by the evening 5 babies [were ill]. You will see them [those infected] increasing like this. You will see the fever, the [baby’s] body is very hot and they will cry day and night. The eyes were red and the skin will have some rashes. So we understood it is measles. Later some medical personnel came and confirmed that this is measles.”¹²

Hadiza Monguno (not her real name), a 20-year-old woman detained for more than two months in 2016, told Amnesty International what happened when the three babies died in February. “When the children died, the reaction was too much sadness and everyone, the whole place, we were in sadness. The soldiers [brought cloth] to cover the dead body of the children. They [soldiers] took the bodies outside and a [military] ambulance will come and take them. They [soldiers] will inform the mother ... that they will take care of the burial.”¹³

Aisha told Amnesty International that, despite complaints to the soldiers, no medical attention was given until after three children had died. She described the efforts to tackle measles after the first deaths. “When the three children died, they started giving attention to children. So if the child is hot in the morning they will take them to the clinic. Every two days the medical personnel will come to the yard and say ‘bring out the children who are sick’. The doctor will see them at the door and give them medicine through the door.”¹⁴

Children under five years old were detained in three women’s cells. Through 2015 these cells held around 25 people each, but by early 2016 this had risen to around 250 women and

¹¹ Photos and videos are on file with Amnesty International.

¹² Amnesty International interview, May 2016.

¹³ Amnesty International interview, April 2016.

¹⁴ Amnesty International interview, May 2016.

teenage girls, as well as many children under five. Two of the female detainees told Amnesty International that there were approximately 20 children under five per cell. Overcrowding and insanitary conditions meant that disease was rife. The young children were the first to suffer.

Salima Khalifa (not her real name), a teenage girl, detained in a women's cell for more than two months in 2016, told Amnesty International about conditions in her cell. "The cell is overcrowded with children and elderly. There are many children with us in the cell between one month and one year. The cell is too congested, you can't turn from right to left when you sleep. In the night the chairman arranges you in lines for sleeping. There will be arguments because of space." Salima told Amnesty International that she was provided food three times a day, but each bowl of food had to be shared between two detainees, and that people lost weight as a result. The cell was very hot and the detainees were only allowed to wash themselves and their clothes around once per month.¹⁵

ARBITRARY DETENTION OF CHILDREN

Amnesty International has repeatedly raised concerns about the arrest and detention of boys as young as 13 years. Recent evidence indicates that the military has detained more than 120 boys between the ages of five and 16 years in Giwa barracks. Amnesty International interviewed witnesses who described a dedicated cell inside the barracks for these boys. The cell is among several constructed between October 2015 and January 2016 (see page 15/16). They said that, of the 120 boys, only seven were older than 12 years.

As with all detainees at the barracks, these children were held incommunicado and denied access to their families. Two boys who were detained in this cell spoke with Amnesty International. They said that there were no visits by family members to the cell and the boys were not allowed out of the cell except to be counted periodically by soldiers.

A man who was released from Giwa barracks at the same time as several boys told Amnesty International that, during the release, some of the boys were reunited with their parents who had also been detained at the barracks in other cells. One of the boys confirmed that whole families were arrested, saying: "Some said they were arrested with their families. Their father was in a cell and mother inside the women's cell and the girls stayed with the mothers. When they were brought to the detention centre they were separated."¹⁶

The boy further told Amnesty International how he suffered in Giwa Barracks: "It is hunger and thirst and the weather [the heat] – these are the main problems. The main problem is hunger."¹⁷ The second boy interviewed by Amnesty International, also detained in the same cell, confirmed: "Food was three times, breakfast, lunch, supper. The food was not enough. There was very little food."¹⁸

According to three witnesses interviewed by Amnesty International, an older detainee was

¹⁵ Amnesty International interview, April 2016.

¹⁶ Amnesty International interview, April 2016.

¹⁷ Amnesty International interview, April 2016.

¹⁸ Amnesty International interview, April 2016.

taken to the boys' cell each morning to provide education. Soldiers locked the 'teacher' in the cell after breakfast and took him out around mid-day. He taught the boys the English alphabet and numbers by rote. No educational materials were provided to the boys. According to a man who could see the boys' cell from the door of his own cell, military and external doctors visited the boys' cell periodically.¹⁹

According to media reports and witness statements, the military has released at least 162 children since July 2015.²⁰ On 12 February 2016, the military announced the release of 275 detainees in Maiduguri who had been "cleared", i.e. investigated and deemed not to be suspected supporters or members of Boko Haram. During the release, Maj. Gen. Hassan Umaru, former Theatre Commander of Operation Lafiya Dole, stated that among the 275 released detainees were "142 males, 49 females, 22 under aged, 50 children of cleared females, two Nigeriens and two Cameroonians."²¹

The last release was in March 2016, when 20 children from the boys' cell were released. But Amnesty International believes that more than 120 remain detained in the boy's cell at the barracks.

Human rights defenders and international non-governmental organisations (INGOs) have repeatedly raised serious concerns about the absence of systems to protect and provide services to people that lived under Boko Haram control, particularly survivors of sexual violence.²² Such people experience stigma from their communities. This stigma also applies to people detained by the military, who are unlikely to be fully trusted by communities even if they have been 'cleared' and approved for release. Children who are thought to be the children of Boko Haram members or supporters are at particular risk of being rejected by communities, prevented from accessing assistance, or even at risk of violence.²³ Mechanisms are urgently needed to ensure that those released from military detention have access to services and their protection is ensured.

¹⁹ Amnesty International interviews, March and April 2016.

²⁰ The military released at least 923 people since July 2015. Sahara Reporters "Nigerian Military Releases 182 Boko Haram Prisoners In Maiduguri" 6 July 2015 (<http://saharareporters.com/2015/07/06/breaking-nigerian-military-releases-182-boko-haram-prisoners-maiduguri>); Premium Times "Boko Haram: Nigerian military frees 128 detainees in Borno" 9 September 2015 (<http://www.premiumtimesng.com/news/headlines/189732-boko-haram-nigerian-military-frees-128-detainees-in-borno.html>); Vanguard "Military releases 275 suspected Boko Haram detainees" 13 February 2016 (<http://www.vanguardngr.com/2016/02/military-releases-275-suspected-boko-haram-detainees/>).

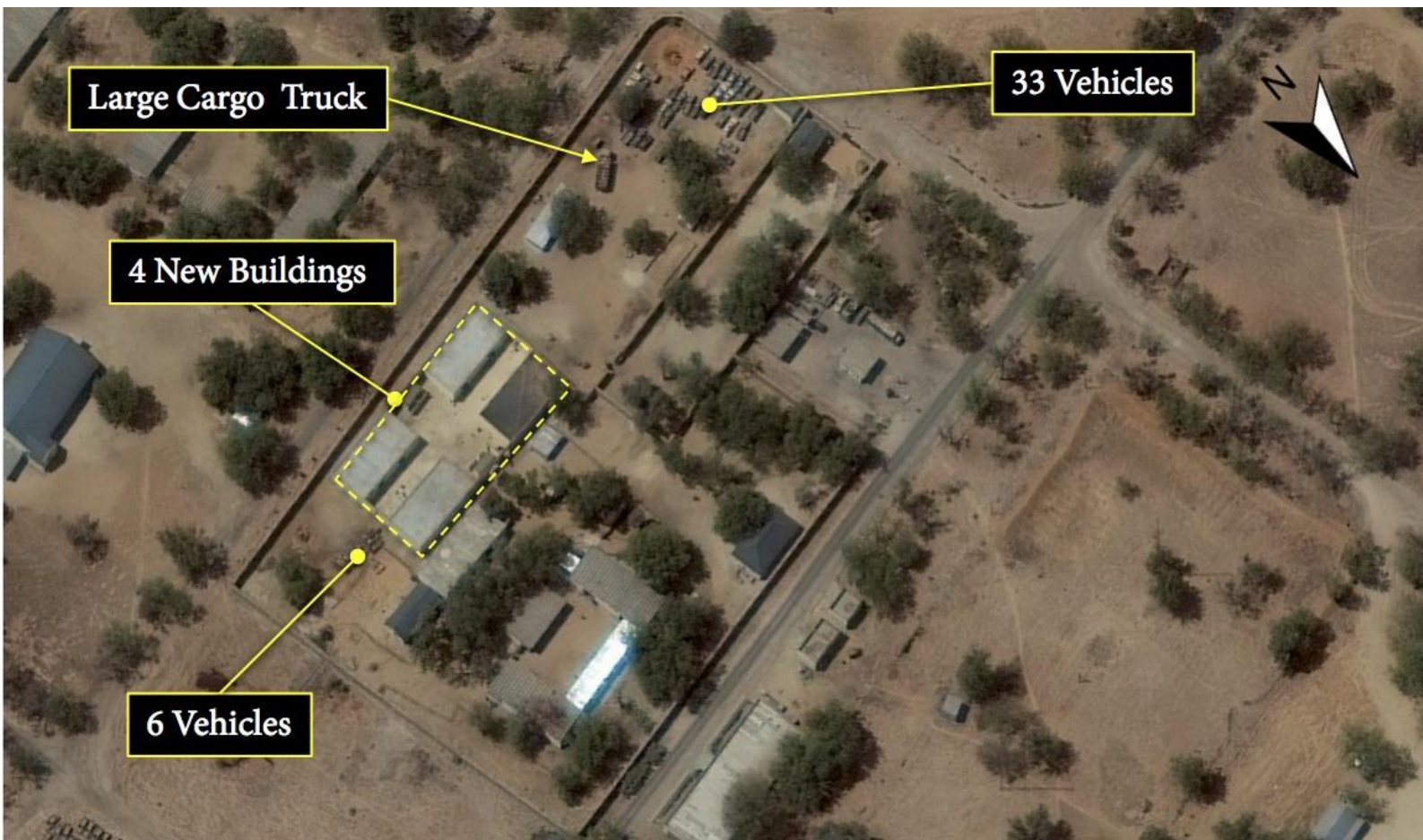
²¹ The Nation "Army releases 275 Boko Haram suspects in Borno" 13 February 2016. Available from <http://thenationonlineng.net/army-releases-275-boko-haram-suspects-in-borno/>.

²² Amnesty International interviews with human rights defenders, April and May 2016. See also Refugees International "Nigeria's Displaced Women and Girls: Humanitarian community at odds, Boko Haram's survivors forsaken" 20 April 2016. Available from <http://www.refugeesinternational.org/reports/2016/nigeria>.

²³ Amnesty International interviews with human rights defenders, April and May 2016. See also Refugees International "Nigeria's Displaced Women and Girls: Humanitarian community at odds, Boko Haram's survivors forsaken" 20 April 2016. <http://www.refugeesinternational.org/reports/2016/nigeria>.



Satellite images show construction work in the detention facility at Giwa barracks between October and December 2015. These images correspond to the testimony of people detained in recently constructed cells in January 2016. © 2016 DigitalGlobe.



Giwa Barracks, February 2016 © 2016 DigitalGlobe.



Corpses of detainees from Giwa Barracks, deposited at a mortuary in Maiduguri in February and March 2016. © Private.

DEATHS OF MEN IN MILITARY DETENTION

Evidence gathered from several sources, including eyewitnesses, indicates that besides the 12 children, a further 136 male detainees have died in Giwa barracks between January and April 2016.²⁴ Amnesty International believes that at least nine men died in January, 33 in February, 64 in March and 30 in April 2016.

These figures demonstrate an escalation of deaths in the barracks compared with the second half of 2015, when, according to interviews with former detainees, fewer than 10 detainees died each month. Amnesty International is concerned that unless urgent action is taken to improve conditions in Giwa barracks, deaths in custody could continue to rise.

A former detainee told Amnesty International that new corpses would be taken out of the cells every day and left outside.²⁵ From their cells, detainees could see the corpses until they were removed from the barracks.

The bodies of the detainees were brought to a mortuary in Maiduguri and from there, Borno State Environmental Protection Agency (BOSEPA) personnel took the bodies in a garbage truck for burial in unmarked graves in Gwange cemetery, Maiduguri.

²⁴ Amnesty International interviews with former detainees, human rights defenders and medical officials, January – May 2016.

²⁵ Amnesty International interview, March 2016.



Recently disturbed earth by the southern gate of Gwange cemetery, Maiduguri. Witnesses saw BOSEPA staff bring bodies to the gate in a rubbish truck. These images show the likely site of grave. April 2016. © Private.

Mallam Babagana (not his real name) works by the side of the road a few hundred meters from the cemetery's southern gate. He told Amnesty International that since November 2015, a BOSEPA rubbish truck has visited the cemetery in the morning, two to three times a week.

According to Mallam Babagana, BOSEPA staff bury the bodies in the southern part of the cemetery, separate from the public area of the cemetery.²⁶ Photos taken in April 2016 show recently dug graves within 50 metres of the gate. Satellite images between November 2015 and February 2016 show disturbed earth in this location and confirms that is separate to the main cemetery plot.

Amnesty International was able to establish neither the cause of death, nor whether detainees received adequate medical assistance. But it is likely that hunger, thirst and disease were responsible for many of the deaths recorded at the barracks. Amnesty International has received pictures and videos of the bodies, and eyewitnesses have given detailed descriptions of the dead. Witnesses said that 28 of the bodies, delivered to the mortuary on 1 March, all had visible gunshot wounds. Many of the other bodies appear emaciated.

A forensic anthropologist examined photos and a video of a total of twelve bodies and confirmed that the photos were likely taken within 24 hours of death. They show a toddler (aged under 2) with scar tissue on his chest and one elderly man; the other men appear to be young adults or teens. The forensic anthropologist confirmed that all men are thin; and in several cases, the bone structure is visible in the ribcage, shoulder blade and spine.²⁷

Witness testimony also suggests that most deaths were likely as a result of inhumane conditions of detention, including starvation, thirst and disease. Water was brought to the cells in a communal bucket each morning and detainees were served with food three times per day. However, witnesses told Amnesty International that detainees did not have enough

²⁶ Amnesty International interview, April 2016.

²⁷ "Postmortem Interval Estimation on Bodies from Giwa, Nigeria" Tal Simmons, PhD., D-ABFA, Cert FA-I, Department of Forensic Science, Virginia Commonwealth University.

water or food and they lost weight and became weak as a result.

Aliyu Modu (not his real name), a 38-year old farmer who was detained in Giwa barracks during the first three months of 2016 told Amnesty International about the conditions in his cell. "In the morning they bring water. That [container] of water is not more than 100 litres. How can this be sufficient for more than 200 people for 24 hours? So we have to use it with caution. There is a small plastic bowl for food. People use it for small children. It is just that for each meal. The breakfast is just a cup. Do you think people lost weight? Yes! We don't have power to complain. If we talk, [the soldiers] shout 'Boko Haram, Boko Haram', so how can we complain?"²⁸

Mohammed Bori (not his real name), a former detainee who was in Giwa during from January until March 2016, confirmed these conditions: "This is the first punishment – hunger and thirst. People were losing weight terribly. They will arrive normal, then after some days they will become hungry and thirsty. It is mostly the elderly that were dying due to the hunger. They cannot stand up. No-one has a shirt, so you can count the ribs of their body."²⁹

²⁸ Amnesty International interview, March 2016.

²⁹ Amnesty International interview, April 2016.



Gwange cemetery, Maiduguri. Imagery taken 6 March 2016. © Digital Globe, Inc. / Google Earth, 2016



Satellite images show disturbed earth by the southern gate of Gwange cemetery, Maiduguri. These images were taken on 2 January and 17 February 2016. © Digital Globe, Inc. / Google Earth, 2016.

The cells in Giwa barracks remain insanitary. Detainees do not have access to toilets, but instead have to use communal buckets for urine and faeces, which are only emptied each morning. Detainees and their cells were rarely cleaned. As a result, disease was a problem.

Aliyu Modu told Amnesty International, "The cells were never cleaned while we were in there. The place is unhygienic. There was no washing, no sweeping and no ventilation. It is very smelly. If you see it, you will cry. You are making stool and urine in the same place you are in for 24 hours. There is no cleaning, so you live in disease. It is like a toilet. Me and my brother were sick inside the cell. Diarrhoea was common inside the cell."³⁰

The conditions described by former detainees were, in part, the result of a significant increase in the number of detainees at Giwa barracks. Amnesty International believes that in May 2015 at least 600 detainees were held in seven cells at the barracks. Women's cells contained around 25 people each, while the men's cells contained 160 each. A cell for elderly men held more than 60 people.³¹ Amnesty International estimates that by March 2016, however, there were over 1,200 detainees detained in at least 10 cells.³² Detainees were kept in cells containing between 200 and 480 people and former detainees describe not having enough space to lie down. The 'boys' cell' had fewer detainees; approximately 120 boys were kept in one cell as of March 2016.

³⁰ Amnesty International interview, March 2016.

³¹ Amnesty International interviews with former detainees, October 2015.

³² Based on interviews with former detainees. Former detainees described seven cells in use during 2015 and at least three new cells constructed between October 2015 and January 2016.

MASS ARBITRARY ARRESTS AND UNLAWFUL DETENTION

Overcrowding in Giwa barracks is a consequence of a system of arbitrary mass arrest and detention in Borno state. As the military recaptured towns under Boko Haram control during 2015, nearby villagers fled to these military-controlled areas. People, particularly men and teenage boys, were arrested as they arrived in towns such as Banki and Bama, or after spending time in internally displaced people's (IDP) camps. Amnesty International has documented three cases of such mass arbitrary arrest in 2016 involving several hundred people.

Aliyu Modu (not his real name), a 38 year-old farmer, told Amnesty International that he left his village and travelled to Bama town after it was retaken by the military in 2015. He spent several months in the IDP camp in Bama until he was arrested in January 2016. Soldiers ordered him, along with more than 240 other men, to report to the military base in the town. He said they were then taken to Bama prison, held overnight and then transferred to Giwa barracks. After more than two months in detention, they were all released.³³

Ali Bukar (not his real name), a man in his seventies, fled his Boko Haram-controlled village close to the Cameroonian border with 45 others in January 2016. They were arrested by Cameroonian soldiers and handed over to the Nigerian military at Banki town, on the border with Cameroon. After two weeks in Banki he was transferred to a prison in Bama town along with 500 other detainees, according to his estimate. On his second day in the prison, the group was 'screened'. "They called us one by one for screening. They said 'Let me see your hand, your back, your chest.' If they see an elderly person they will say you go. If they see any young man they say go back. The young man will be beaten or kicked."

10 days later, Ali Bukar was transferred to the IDP camp in Bama along with 17 elderly men and many women and young children. He estimated that around 400 people remained in Bama prison and said they were all young men. Five of his sons were among those left behind. He was later informed by members of the local CJTF that the young men were transferred to Giwa barracks. Ali Bukar told Amnesty International that he has not heard from his sons since, "Up till now we have been separated from our relatives, we don't know their condition. We don't know if they are alive or not."³⁴ These arrests appear to be arbitrary, random profiling based on the sex and age of individuals, rather than evidence of criminal wrongdoing.

Mohammed Kaka (not his real name), a 63-year-old man, fled his Boko Haram-controlled village in January 2016 and was taken by soldiers to an internally displaced persons camp in Bama town. He told Amnesty International that in late February, soldiers arrested an

³³ Amnesty International interview, April 2016.

³⁴ Amnesty International interview, March 2016.

estimated number of 400 men and boys from the community in a 'screening' exercise. They were taken away in military trucks and Mohammed Kaka was informed by members of the local CJTF that they were taken to Giwa barracks.³⁵ This testimony also suggests that the arrests were arbitrary.

In a meeting between the Chief of Army Staff and Amnesty International delegates in February 2016, a senior Army officer stated that the Army has introduced a 'profiling proforma' checklist to ensure that arrests are not arbitrary. He stated that detainees were transferred to the Army's central detention facility, outside the north-east, where they were 'profiled', and either kept in custody or released. These new measures appear to be procedures introduced for "screening" after individuals have been arrested by military. No further explanation was given as to measures introduced to safeguard against arbitrary arrests and Amnesty International believes that the practice of arbitrary arrests continues unabated.

Since July 2015, the military has announced at least three mass releases of detainees from Giwa barracks, totaling 585 people.³⁶ Based on witness interviews Amnesty International believes that an additional 338 people have been released in 2016, bringing the total to 923 people. Amnesty International has interviewed 20 detainees released after June 2015. They spent anywhere between two and 18 months in detention. None were brought before a court or allowed access to their families or lawyers while in detention.

SPEECH BY MAJ. GEN. HASSAN UMARU, 12 FEBRUARY 2016, ON THE RELEASE OF 275 DETAINEES FROM GIWA BARRACKS

The following excerpts are from the speech given by the former Theatre Commander of Operation Lafiya Dole, Maj. Gen. Hassan Umaru, on 12 February 2016, when the military released 275 detainees from military detention.

"Today we are releasing 275 persons who have been in detention over suspicion of being involved in terrorist or insurgent activities. Our crack team of joint investigators has screened and cleared the persons that are in the process of being released here today. Accordingly, and in line with the principles of justice, equity and fairness, we deem it fit to release them to their families. ... Their stay in detention has not been palatable due to restrictions imposed and loss of freedom. However, I see it as their sacrifice and contribution towards the return of peace to our country. Today's occasion will no doubt reassure Nigerians and indeed all well-meaning citizens that no individual will be unjustly and unduly incarcerated. We remain committed to the protection of the fundamental rights of every citizen of Nigeria and foreigners alike. ... I am confident that the detainees being released today will act as our ambassadors and also clarify any misconception as to our conduct, modus operandi and respect for human rights. ... I also congratulate the suspects who are about to regain their

³⁵ Amnesty International interview, March 2016.

³⁶ Sahara Reporters "Nigerian Military Releases 182 Boko Haram Prisoners In Maiduguri" 6 July 2015 (<http://saharareporters.com/2015/07/06/breaking-nigerian-military-releases-182-boko-haram-prisoners-maiduguri/>); Premium Times "Boko Haram: Nigerian military frees 128 detainees in Borno" 9 September 2015 (<http://www.premiumtimesng.com/news/headlines/189732-boko-haram-nigerian-military-frees-128-detainees-in-borno.html>); Vanguard "Military releases 275 suspected Boko Haram detainees" 13 February 2016 (<http://www.vanguardngr.com/2016/02/military-releases-275-suspected-boko-haram-detainees/>).

freedom. And finally I would like to commend the efforts of our interrogation team, who worked tirelessly to make this day a reality."³⁷

The speech suggests that the investigation of detainees, leading to some detainees' release, is sufficient to comply with the law. However, Nigerian law does not allow for suspects to be held without being brought to court. The Terrorism (Prevention) Act 2013 allows a court to "grant an order for the detention of a suspect" for 90 days, which the court can renew for another 90 days, until "the conclusion of investigation and prosecution," (Section 27, subsection 1). While this provision appears to allow for indefinite detention, contrary to international human rights law, it does not allow for detention without oversight by the courts. Amnesty International believes that the majority, if not all, of those released were detained longer than the maximum period within which a suspect should be brought before a judge. Hundreds of detainees remain in detention without being charged or brought before a judge. None of the detainees had access to their relatives or a lawyer. Further, detainees were subjected to inhuman conditions and ill-treatment in Giwa barracks. The conditions under which the detainees were held were not simply "unpalatable", they were gross violations of national and international human rights law and may amount to torture. It is unconscionable for the Nigerian military to flippantly refer to its ill-treatment and possible torture of civilians as sacrifices made by the victims of their abuse. Victims have the right to a public apology, including acknowledgement of the facts and acceptance of responsibility. Where applicable, the military should also publically acknowledge that detainees were arrested arbitrarily, without reasonable suspicion of having committed a crime.

³⁷ Transcribed from a video of the full speech received by Amnesty International.

APPLICABLE LAW

Amnesty International believes that the situation in north-east Nigeria has constituted a non-international armed conflict since at least May 2013. In a non-international armed conflict, international humanitarian law applies as well as international human rights law. Serious violations of international humanitarian law constitute war crimes and entail individual criminal responsibility. Certain crimes, when committed as part of a widespread or systematic attack directed against any civilian population (in furtherance of a state or organizational policy), with knowledge of the attack, constitute crimes against humanity.

During a non-international armed conflict all detention must be authorized by domestic law and be in compliance with international human rights law. International human rights law and the Nigerian constitution guarantee the right to liberty, freedom from arbitrary arrest or detention, and the right to a fair trial. The right to liberty means that no person should be arrested unless there is reasonable suspicion that they have committed a recognisable criminal offence. The right to a fair trial includes the right to be brought before a judge promptly, the right of access to a lawyer, the right to be free from torture and other ill-treatment, and the right to be presumed innocent unless and until proved guilty.

Detainees in Giwa barracks continue to be held in violation of domestic and international human rights law. They were arrested without reasonable suspicion of having committed an offence, are denied access to a lawyer, and are detained without being brought before a judge. As the military did not comply with domestic law on arrest and detention, these arrests are also arbitrary under international humanitarian law.

Torture and other cruel, inhuman or degrading treatment or punishment (ill treatment) is prohibited by Nigeria's constitution and several international treaties to which Nigeria is a state party. Torture committed in the context of an armed conflict may constitute a war crime. Nigeria's constitution and international human rights law guarantee the right to life. In the context of an armed conflict, deaths in military detention facilities may constitute the war crime of murder.³⁸

This briefing provides additional evidence of deaths in military detention, and torture or other ill treatment by the Nigerian military. In this context, military officers should be investigated for their potential criminal responsibility for the war crimes of murder and torture.

The rights of children are enshrined in international and Nigerian law. Nigeria has ratified the UN Convention on the Rights of the Child, which provides that children should not be subject to torture or cruel inhuman or degrading treatment (Article 37 a), and stipulates safeguards around the detention of children (Articles 37 and 40), including the requirement for states to establish a minimum age of legal liability. The Convention also emphasizes that the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used

³⁸ See p 28-39, Amnesty International "Star of Their Shoulders. Blood on Their Hands. War crimes committed by the Nigerian military."

only as a measure of last resort and for the shortest appropriate period of time (Article 37 b). Similar provisions are contained in the African Charter on the Rights and Welfare of the Child, which Nigeria has also ratified. The Child's Rights Act (2003) requires that for every action concerning a child, their best interests shall be the primary consideration (Article 1), and provides safeguards around the investigation, arrest and detention of children suspected of having committed a criminal offence (Part XX, in particular Article 212).

As with all detainees, children were not detained in conformity with the law and lacked basic legal safeguards. At least 120 children remain detained arbitrarily, without access to their families or lawyers and without ever being brought before a judge. Amnesty International could not identify any process for determining the best interests of detained children, for attempting alternatives to detention or for determining the shortest appropriate period of detention. Amnesty International has documented the detention of children in conditions which may amount to ill treatment. As stated previously, this may amount to a war crime.

The circumstances and secrecy under which children have died in military detention raises the concern that these deaths are unlawful and, in the context of an armed conflict, may amount to the war crime of murder. Nigeria has the obligation to ensure that no-one, including children, is held unlawfully or arbitrarily and that all persons, including children, are not detained in conditions that amount to ill treatment or which threaten their lives. The Nigerian government must investigate these deaths and where evidence indicates the reasonable suspicion that individuals are criminally responsible for crimes under international law, they must ensure that those criminally responsible are brought to justice through fair trials not subject to the death penalty.

The UN Secretary General has identified six grave violations of children in armed conflict. These include killing and maiming children and abduction of children. The grave violation of killing and maiming children includes torture and other cruel, inhuman or degrading treatment of children. The abduction of children also includes some forms of arbitrary deprivation of liberty. The evidence collected by Amnesty International leads to the conclusion that the members of the Nigerian military have arbitrarily deprived children of their liberty, subjected children to ill treatment which may amount to torture, and have subjected children to conditions that have led to their deaths.

RECOMMENDATIONS

TO THE GOVERNMENT OF NIGERIA:

initiate independent and impartial investigations into credible evidence of war crimes and other crimes under international law, including this latest evidence of deaths in military detention; unlawful killings; and torture, and other ill treatment;

immediately end the arbitrary arrest and unlawful detention of civilians in north-east Nigeria. In particular, ensure that individuals are only arrested and detained on the basis of reasonable suspicion of criminal responsibility for recognisable crimes and, ensure that all detainees are brought promptly and regularly before a judge, are charged with a recognisable criminal offence or released, and have access to their families and lawyers;

immediately close detention facilities at Giwa barracks, due to both its status as an ungazetted detention facility and the pattern of inhumane conditions in the facility, and either release detainees or transfer them to civilian authorities;

ensure that all detainees are held in legal, sanitary and humane conditions, which ensure their physical integrity;

release all children below the internationally accepted minimum standard age for criminal liability, except for very young children if it is in their best interests that they be kept with their parents and steps are taken to ensure that their conditions of detention reach minimum standards;

children over the age of criminal responsibility should either be released or charged by civilian authorities with a recognizable criminal offence and tried promptly and fairly by civilian courts without recourse to the death penalty, while respecting all international standards relating to the detention and trial of juveniles;

urgently introduce systems to ensure the safety and well-being of children released from military detention. This should include systems to assess the risk of returning released children to their families and communities, and to provide relocation if required, to regularly monitor children that have been released to ensure their safety and well-being, and ensure child protection authorities are able to provide for the safety and well-being of unaccompanied children;³⁹

in order to ensure the safety and well-being of children released from military detention, seek the advice and assistance civil society, international NGOs and United Nations agencies; and

ensure that any deprivation of children's liberty is a last resort and for the shortest appropriate period of time, and is in a facility specially suited to their needs.

³⁹ See the Principles and Guidelines on Children on Children Associated with Armed Forces or Armed Groups, known as the 'Paris Principles', 2007.

TO THE NATIONAL ASSEMBLY:

pass resolutions in the Senate and the House of Representatives calling on President Buhari to urgently initiate independent investigations into evidence of war crimes, crimes against humanity and other crimes under international law and other serious violations of human rights committed in the context of the conflict between Boko Haram and the Nigerian military; and

introduce or amend existing legislation to domesticate international law and to bring national law into line with international standards. This should include bringing the Terrorism Prevention Act (2013) into line with international law, criminalising torture and enforced disappearances in line with the relevant international treaties, and domesticating the Rome Statute.

TO THE NATIONAL HUMAN RIGHTS COMMISSION:

continue to regularly seek access to all places of detention in Nigeria and regularly visit and report on the legality of and conditions in detention. All reports should be made public;

exercise authority to investigate all allegations of human rights violations, including allegations contained in this briefing; and

ensure an effective and independent complaints system for extrajudicial executions, death in custody, enforced disappearances and torture; and ensure that all such suspected cases are duly investigated.

TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS:

Publicly condemn the inhumane conditions of detention in Giwa barracks and the detention of children by the Nigerian military, and call on the Nigerian government to urgently initiate thorough, independent and effective investigations into crimes committed in the context of the ongoing conflict in north-east Nigeria; and

pursuant to its protective mandate, urgently request a fact-finding visit to Nigeria, or if it has already done so, remind Nigeria to promptly respond to the request. If and when the request for the fact-finding visit is granted, the mission should be composed of the relevant special mechanisms of the African Commission;

TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL:

Adopt a resolution calling upon the Government of Nigeria to initiate urgently thorough, independent, impartial and effective investigations into crimes under international law by all parties to the conflict and to seek regional and international assistance and advice in the conduct of these investigations and any subsequent prosecutions;

request a report from the Nigerian government on steps taken towards the implementation of its obligation to pursue truth, justice, reparation and guarantees of non-recurrence, including through the investigation and prosecution of crimes under international law committed by all parties to the conflict; and

request the Office of the High Commissioner for Human Rights to resume monitoring and reporting to the Council on violations of international human rights and humanitarian law committed in the context of the conflict with Boko Haram.

TO NIGERIA'S INTERNATIONAL PARTNERS:

condemn the inhumane conditions of detention in Giwa barracks and the detention of children by the Nigerian military;

call on the Nigerian Government to urgently initiate thorough, independent, impartial, effective and transparent investigations into allegations of crimes under international law, as well as to seek regional and international assistance and advice in the conduct of these investigations and any subsequent prosecutions; and

re-evaluate whether existing military co-operation with Nigeria, including training or technical advice, is consistent with states' obligations to ensure that such co-operations does not contribute to the commission of human rights violations or violations of international humanitarian law.

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