

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: AL G/SO 214 (33-27) G/SO 214 (53-24)
NGA 2/2014

28 March 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 17/5 and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **attacks against a group of men on grounds of their actual or perceived sexual orientation, and police inaction with regards to these attacks, on 12 and 13 February 2014 in Gishiri village, Abuja.**

According to the information received:

On 12 February 2014, at 01:00 am, five men in Gishiri village were attacked by a group of individuals on the grounds of their actual or perceived sexual orientation. The attacked men reportedly locked themselves in a room. The attackers came back to the house at 05:00 a.m and beat one additional man who was returning from work, causing serious injuries to his legs, body, arms and head. The five men came out from the house to protect and help him, and were also attacked.

On 13 February 2014, at 01:00 am, about 40 men, allegedly mobilized by a religious leader, reportedly stormed the houses of 14 men in Gishiri village. The 14 men were allegedly dragged out of their homes, physically attacked and subject to death threats. Some of them sustained severe injuries to their eyes, heads and necks. Personal property was allegedly stolen. Five of the victims and one family member were taken to Gishiri police station at 02:00 am. There, they were reportedly insulted and beaten by the police. Later, the police took them to another police station, called Mabushi police station. In Mabushi, the victims were reportedly insulted and interrogated about their sexuality and released the following morning.

Reportedly, the police have not investigated these attacks. Several of the victims' houses were painted with homophobic writings.

We express grave concern about the allegations of ill-treatment amounting to torture, and the death threats against these men in Gishiri village and at the police stations of Gishiri and Mabushi. We are also concerned about the alleged failure of the authorities to investigate, prosecute and punish the perpetrators of those acts.

Without prejudging the facts of the case, we would like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases mentioned above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth *inter alia* in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which your Excellency's Government ratified on 29 July 1993 and on 28 June 2001 respectively

Paragraph 1 of Human Rights Council Resolution 16/23 "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

In paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008), the Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission.

Furthermore we are drawing the attention of your Excellency's Government to article 12 of the Convention Against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention Against Torture, which requires State parties to prosecute suspected perpetrators of torture. We would also like to bring to your Excellency's Government's attention paragraph 7b of Human Rights Council Resolution 16/23, which urges States "(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading

treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.”

We wish to stress that everyone has the fundamental right to life as set forth in article 6(1) of the International Covenant on Civil and Political Rights (ICCPR). In addition, we would like to refer your Excellency’s Government to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65 according to which it is incumbent upon States to provide “effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats”.

In this context, we paragraph 8a of Human Rights Council Resolution 16/23, reminds States that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture”

With reference to acts of violence and discrimination targeting lesbian, gay, bisexual and transgender (LGBT) persons, United Nations human rights treaty bodies have expressed deep concern and reaffirmed the State duty to protect all persons from such acts, regardless of sexual orientation and gender identity, to promptly and effectively investigate such allegations, and to prosecute and punish perpetrators (see inter alia CCPR/C/50/D/488/1992, CCPR/C/KWT/CO/2, E/C.12/GC/20, CRC/GC/2003/3, CRC/GC/2003/4, CRC/C/GC/13, CEDAW/C/GC/28, CAT/C/GC/2, A/HRC/19/41). The United Nations High Commissioner for Human Rights recommends States to, inter alia, protect persons from homophobic violence and investigate and prosecute perpetrators of such violence; prevent the torture and cruel, inhuman and degrading treatment of lesbian, gay, bisexual, transgender (LGBT) persons in detention; ensure that criminal laws are not used to harass or detain people on the basis of their sexual orientation; enact comprehensive laws that include sexual orientation and gender identity as prohibited grounds of discrimination; ensure that individuals can exercise their rights to freedom of expression, association and peaceful assembly in safety and without discrimination (A/HRC/19/41, para 84(a)-(h)).

It is the duty of the Government to investigate, prosecute and punish violations of the right to life, in line with the Principles on Effective Prevention and Investigation of

Extra-Legal, Arbitrary and Summary Executions. In particular, Principle 9 stipulates that there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, while Principle 18 provides that “Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice”. We wish to recall also that the families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time, pursuant to principle 20.

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the full details of any investigations and prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please indicate what protective measures are to be taken to ensure the life, as well as the physical and psychological integrity of the victims and their families.
5. Please indicate whether steps have been undertaken to provide compensation to the victims?
6. Please indicate what measures have been taken by your Excellency’s Government to ensure that LGBT persons are protected from violence and discrimination in Nigeria.

We would appreciate a response within sixty days. Your Excellency’s Government’s response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we call on the attention of your Excellency’s Government that in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment