



Catherine Ashton

High Representative for Foreign Affairs and Security Policy
Vice President of the European Commission

Villy Søvndal

Minister for Foreign Affairs of Denmark

Brussels, 6 February 2012
Our Ref: B1155

Dear Baroness Ashton,
Dear Mr Søvndal,

EU must call on Nigeria to improve human rights protection

At the Ministerial meeting on 8 February in Abuja, the EU must call on Nigeria to take effective measures to stem the upsurge in human rights violations and ensure protection of its population. We are particularly concerned about:

Security situation and response by security forces

Recent attacks by the religious sect Boko Haram have resulted in serious human rights abuses, including deaths and insecurity. However, the Nigerian Government has failed to prevent or investigate these attacks amid reports of extrajudicial executions, enforced disappearances and torture of suspected Boko Haram members. Nigeria must not pursue security at the expense of human rights. The EU must urge Nigeria to revise its counter-terrorism strategy, and instead adopt measures which prevent, investigate, prosecute and punish terrorist acts, without resulting in new human rights violations.

Scores have been injured and at least three killed in protests against the Government's decision in January to cut fuel subsidies. The EU should press Nigeria to reform its police regulations in line with international standards, in particular by repealing Police Force Order 237, to prevent further loss of life and ensure the police only use firearms when strictly necessary to protect life.

Human Rights Defenders (HRDs)

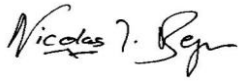
Nigeria is marred by diminishing space for HRDs, who face threats, arrests and detention. Politicians increasingly use their influence to secure the arrest of people criticising the authorities. In line with the EU Human Rights Defender Guidelines and the LGBT toolkit, the EU should remind Nigeria of its obligation to create an environment conducive for HRD work, and refrain from attacking or intimidating HRDs. In particular, Nigeria must halt the adoption of the bill on the prohibition of same-sex marriage. If adopted, it would criminalise activism on the rights of lesbians, gays, bisexual and transgender persons.

Oil Spills: The Petroleum Industry Bill and the Government's responsibility for enforcing regulations

Oil production in Nigeria, where EU-associated multinational corporations play a major role, is causing extensive pollution as was recently confirmed by an independent UN Environment Programme (UNEP) study. Affected communities are exposed to widespread contamination damaging their health and livelihoods. Despite these severe impacts, legal avenues for protection and compensation are limited and in practice often not accessible. Nigeria's existing regulations of extractive industries are poorly enforced. The current redrafting of the Nigerian Petroleum Industry bill is an opportunity to ensure it addresses the oil industry's social and human rights impact. The EU should call on the Nigerian Government to ensure the bill introduces mandatory human rights risk and impact assessments for business activities, meaningful consultation with communities when planning and conducting business activities, and measures which guarantee transparency and access to information for affected communities.

Further details on the above-mentioned issues are contained in the attached annex. Please do not hesitate to contact us, should you need any further information. We would much appreciate feedback on discussions at the EU-Nigeria Ministerial meeting and other EU efforts to raise human rights issues in the country.

Yours sincerely,



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Manuel Lopez Blanco, EEAS Director West and Central Africa Department

Sean Doyle, EEAS Head West Africa Division

Rolf Timans, EEAS acting Head Human Rights and Democracy Division

David MacRae, Head of the EU Delegation to Nigeria

Fiona Lunny, Chair of the Council Working Group on Africa

Bert Theuermann, Chair of the Council Working Party on Human Rights

Annex – Further details on issues outlined above

1. Security situation and response by security forces

The recent deadly attacks by Boko Haram and countrywide protests have illustrated that Nigeria's security forces are not in a position to adequately protect the population from human rights violations and abuses.

Boko Haram, officially called *Jama'atu Ahlis Sunna Lidda'a Wa'ati Wal Jihad*, has perpetrated numerous human rights abuses over the past year. At least 186 people were killed in Kano on 21 January when Boko Haram members bombed security forces at eight different locations, including the zonal and state police headquarters in Kano and State Security Service (SSS) headquarters. The bombings started at 4.15 pm and were followed by exchanges of gun fire between Boko Haram and security forces lasting several hours. Among the victims were police officers, their relatives, and residents living close to the police stations. Channels journalist Enenche Akogwu was shot dead by suspected Boko Haram members near Government House. Amnesty International condemns the attacks, which must be stopped.

There have been serious criminal justice failings in the Nigerian Government's response to Boko Haram. Suspected members were rounded up in previous sweeps, but have not been tried, partly due to the lack of proper police work to gather evidence. The main suspect of the 2011 Christmas Day bombing by Boko Haram, which caused at least 37 deaths, escaped police custody on 16 January. Women and children not suspected of any offences have been unlawfully detained and ill-treated to gain information about male relatives suspected of offences. Suspected Boko Haram members have been subjected to enforced disappearances. Security forces have often resorted to dragnet arrests, rather than arresting people on the basis of a reasonable suspicion that they committed an offence. Suspects are regularly detained in cells that violate their right not to be subjected to inhuman and degrading treatment. Court processes are slow, meaning that most detainees, especially the poor, are kept in pre-trial detention for many years.

The failure to properly investigate and bring to justice those responsible for human rights abuses fosters impunity and denies victims their right to a remedy. Security forces must ensure their response is within legitimate boundaries, established legal frameworks and fully respect human rights. The government must also ensure that police are properly equipped and trained to carry out their duties. Nigeria must invest substantially and effectively in reforming the criminal justice system, so that similar attacks are prevented and the perpetrators brought to justice in fair trials without recourse to the death penalty. Nigeria has a weak criminal justice system, which is under-resourced, blighted by corruption and struggles to earn the trust of the population. Criminal investigations, if they occur, are often cursory and not intelligence-led.

The police has also resorted to excessive use of force in countering peaceful protest. Since 9 January, tens of thousands of Nigerians throughout the country went on strike to protest against the removal of fuel subsidies and to demand good governance. The protests were generally peaceful, but in some instances violence was reported. With more protests announced, President Goodluck Jonathan must demonstrate his commitment to protecting the people.

The President must repeal Police Force Order 237 and immediately announce that the use of lethal force is only allowed when strictly unavoidable to protect life. Amnesty International has repeatedly called on the authorities to repeal this order, which provides guidance on police use of firearms. It is so broad that it permits police officers to shoot protesters, whether or not they pose a threat to life. Amnesty International considers it unacceptable that Police Force Order 237 instructs police officers in "riot" situations to "single out" and fire at "ring-leaders in the forefront of the mob". The definition of riot is so vague, that all protesters, however peaceful, are at risk. The force order also directs officers to fire "at the knees of the rioters" and explicitly prohibits firing in the air. Shooting at people, regardless of where an officer aims, is likely to result in death. The President must also set up an independent commission of inquiry to investigate all reports of use of force by the police against protesters. International standards require that any use of force or firearms resulting in death or injury is investigated to ensure that the use of force was not arbitrary or abusive. The police must be provided with non-lethal equipment to properly manage public order situations, including protests, even if they turn violent.

Amnesty International has documented numerous incidents of excessive and unlawful use of force by police and other security forces. The Nigeria Police Force is responsible for hundreds of unlawful killings every year. The majority of cases go un-investigated and unpunished. When investigations do take place,

they do not comply with international standards. Internal police investigations lack independence and transparency. The families of victims usually have no recourse to justice or redress. Some relatives are threatened if they seek justice.

The Nigerian Government has repeatedly stated its willingness to address the problems in the criminal justice system, improve access to justice and reform the police force. Despite several recommendations for improvement from various review panels in recent years, little has been done. A review of the Police Act (1990) began in 2004, but the draft bill has been pending since October 2006. Laws, regulations and codes of conduct to protect human rights are simply not enforced.

2. Human Rights Defenders (HRDs)

A pattern has emerged of intimidation and attacks against human rights defenders and journalists, with several threatened, beaten or arrested by police and security forces. Politicians increasingly use their influence to secure the arrest of people who criticise the authorities.

On 9 November, Justine Ijeoma, the Director of the NGO Human Rights, Development and Environmental Foundation (Hursdef), was arrested after intervening to stop a police officer beating a woman. He was released after being detained for several hours. He and his staff were threatened by the police throughout the year.

In October, Osmond Ugwu, a human rights defender from Enugu State, and Raphael Elobuiké, were arrested at a peaceful trade union meeting in Enugu after campaigning for the minimum wage to be implemented. They were subsequently charged with conspiracy to murder and attempted murder. In December, the Attorney General appeared in court to personally oppose the bail application. They were released on bail in January 2012.

In December, the Senate approved a bill which would impose a 14-year prison sentence for same-sex marriages. Any person or groups that “witness, abet and aids the solemnisation of a same-sex marriage or union” or “supports” gay groups, “processions or meetings”, would face a ten-year prison sentence. The same sentence would apply to a “public show of same-sex amorous relationship” and anyone who registers gay clubs and organisations protecting the rights of lesbians, gay men, bisexual and transgender people. The bill is currently before the House of Representatives.

3. Oil Spills - The Petroleum Industry Bill and the responsibility of the Nigerian Government to enforce regulations

In August and December 2008, two major oil spills disrupted the lives of the 69,000 people living in Bodo, Nigeria. Both spills continued for weeks before they were stopped. Three years on, the Shell Petroleum Development Company has still not cleaned up the oil. As illustrated by the evidence in a report issued by Amnesty International and the Centre for Environment, Human Rights and Development (CEHRD) in November 2011,¹ this continues to have catastrophic consequences for tens of thousands of people in Bodo, whose lives have been directly affected by ongoing pollution.

Bodo is a disaster which should not have happened. The current situation there is a bleak example of Shell's general failure to comply with Nigerian regulations. There is currently no information publicly available about the condition of Shell's infrastructure in the Niger Delta. However, it is clear that the company failed to adequately maintain oil pipelines and infrastructure over many years.

Much of the damage caused by the oil spills was entirely preventable – had the company followed Nigeria's national law and international oil industry standards. Shell should have stopped the oil flowing as soon as both spills were reported. Instead, the company waited weeks. When the spills were eventually stopped, Shell failed to clean up the resulting pollution. Three years on, the oil continues to permeate every aspect of

¹ Amnesty International report “*The true 'tragedy': Delays and failures in tackling oil spills in the Niger Delta*”, available at: <http://www.amnesty.org/en/library/info/AFR44/018/2011/en>

people's lives in Bodo. It has destroyed their land and livelihoods. The lack of a prompt clean-up has caused far more damage than a case of equipment failure should have done, had it been dealt with as required by law.

Shell recently referred to the oil spills in the Niger Delta as a "tragedy". In Amnesty International's view, it is Shell's failure to comply with Nigerian regulations on oil spills which is the true tragedy of the Bodo disaster. The Nigerian authorities could also have prevented tragedy from unfolding three years ago if they had intervened according to their own regulations. Until these delays and failures are addressed, more "tragedies" like the Bodo oil spill will continue to happen again and again.

Oil production in Nigeria, where EU-associated multinational corporations play a major role, is causing extensive pollution as was recently confirmed by an independent study by the UN Environment Programme.² The study found that oil pollution over many years had resulted in such devastation that it would take more than 25 years for Ogoniland to recover.

The current redrafting of the Petroleum Industry bill is an opportunity to ensure it will include protection of human rights. The government should ensure genuine consultation with oil-affected communities on the bill, and ensure it addresses the social and human rights impact of the oil industry. This should include a mandatory assessment of the potential impacts on human health; access to clean water and livelihoods; meaningful consultation with communities; and greater transparency and access to information for affected communities. The authorities must also ensure independent oversight of the oil industry and increase access to effective remedy for people whose rights are affected by oil operations in the Niger Delta. In terms of right to remedy in case of violations resulting from oil operations, the bill should ensure that any sums awarded are fair and adequate, and cover long-term impacts, health issues and all other reasonable damages.

Further information on much-needed human rights reforms in Nigeria can be found in the **Human Rights Agenda for Nigeria 2011-2015**,³ which is addressed to members of the Nigerian National Assembly calling for the following key steps in demonstrating Nigeria's commitment to its international obligations:

1. Reform the police to stop extrajudicial executions, torture and enforced disappearances
2. Reform the justice sector to improve access to justice
3. Impose an official moratorium on executions, with a view to ultimately abolishing the death penalty, and commute all death sentences
4. Protect the right to life and security of persons and ensure accountability for human rights violations and abuses
5. End forced evictions and realise the right to adequate housing
6. Protect human rights in the Niger Delta and ensure stronger regulation of the oil industry, including effective enforcement and appropriate sanctions
7. Eliminate discrimination against women, end violence against women
8. Protect the rights of the child
9. Protect freedom of expression, association and peaceful assembly
10. Amend legislation to prohibit and eliminate prejudicial treatment on the basis of sexual orientation, consensual sexual relations or gender identity

² See Report on the Environmental Assessment of Ogoniland, available at: http://postconflict.unep.ch/publications/OEA/01_fwd_es_ch01_UNEP_OEA.pdf

³ Available at: <http://www.amnesty.org/en/library/info/AFR44/014/2011/en>