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**DROITS CIVILS ET POLITIQUES, NOTAMMENT LA QUESTION  
DE L'INTOLÉRANCE RELIGIEUSE**

**Rapport de la Rapporteuse spéciale sur la liberté de religion  
ou de conviction, Asma Jahangir**

Mission au Nigéria\*

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\* Le résumé du rapport est distribué dans toutes les langues officielles. Le rapport lui-même figure en annexe au présent document et est distribué dans la langue dans laquelle il a été soumis.

### **Résumé**

Du 27 février au 7 mars 2005, la Rapporteuse spéciale de la Commission des droits de l'homme sur la liberté de religion ou de conviction, Asma Jahangir, s'est rendue au Nigéria à sa demande et à l'invitation du Gouvernement nigérian.

Au cours de sa visite, la Rapporteuse spéciale a noté que les tensions et l'incompréhension entre les communautés musulmane et chrétienne, qui avaient été jusque-là contenues et limitées à certaines régions, s'étaient aggravées ces dernières années. En particulier, l'adoption d'une législation pénale fondée sur la charia par un certain nombre d'États du Nord depuis 1999 a provoqué des réactions négatives parmi les membres des communautés non musulmanes, même si seuls les musulmans sont soumis à ces dispositions légales. En outre, même si ces tensions s'expliquent aussi par des facteurs économiques, politiques et autres, elles se sont souvent polarisées sur les questions religieuses.

Pour ces raisons, la Rapporteuse spéciale est d'avis que la jouissance du droit à la liberté de religion ou de conviction n'est pas suffisamment assurée. Elle craint de surcroît que l'aggravation des tensions religieuses entrave plus encore la jouissance de ce droit au sein de la population nigériane.

**REPORT OF THE SPECIAL RAPPORTEUR ON FREEDOM  
OF RELIGION OR BELIEF, ASMA JAHANGIR, ON HER  
MISSION TO NIGERIA**

**(27 February to 7 March 2005)**

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### **Introduction**

1. From 27 February to 7 March 2005, the Special Rapporteur on freedom of religion or belief carried out a visit to Nigeria in fulfilment of her mandate, at her request and at the invitation of the Government.
2. The Special Rapporteur had meetings in Abuja and Lagos, but also travelled to the cities of Kaduna (Kaduna State) and Jos (Plateau State) where she met with local officials as well as members of the civil society.
3. During her visit, she had the honour to meet the president of Nigeria, to whom she is grateful for the frank discussion. She also had meetings with a number of other Nigerian officials, including the Governor of Plateau State, the Minister for Foreign Affairs, the Minister of Internal Affairs, the Minister of Culture, the President of the Supreme Court, and other officials dealing with questions related to the mandate on freedom of religion or belief. She also had meetings with the National Human Rights Commission, a member of the Parliamentary Committee on Human Rights and representatives of the National Labour Congress. Despite her efforts, she was not able to meet with members of the opposition as they were unable to receive her for a meeting.
4. The Special Rapporteur also had meetings with religious leaders, representatives of religious communities and religious organizations, including representatives of the Christian Association of Nigeria (CAN) and of the Jama'atul Nasril Islam<sup>1</sup> (JNI) in the different locations that she visited.
5. Consultations with non-governmental human rights organizations were organized individually and in groups at all the places that the Special Rapporteur visited. These groups included the Baobab for Women's Human Rights, the National Association of Democratic Lawyers, Constitutional Watch, Legal Resources Consortium, Hurilaws, Legal Defence and Assistance Project, the Centre for the Rule of Law, Global Rights, Women's Rights Advancement and Protection Alternative, Constitutional Rights Project, the Centre of Democracy and Development, Community Action for Popular Participation, and Even Development Projects.
6. The Special Rapporteur wishes to thank the Nigerian authorities for their invitation, the preparation of the official programme and the assistance provided during the visit. While the organization of official meetings sometimes proved laborious, in particular with regard to time management, the officials in charge of the visit were in most cases cooperative.
7. The Special Rapporteur is particularly grateful for the very positive attitude that representatives of religious groups and non-governmental organizations (NGOs) demonstrated during the visit. In this regard, she was impressed by the level of analysis and research that is carried out by NGOs on human rights issues and, in particular, on those related to her mandate. She considers that the high quality and dynamism of Nigerian NGOs constitute an indisputable advantage, including for the Government, in the realization of the measures that will be needed to bring the country's religious communities to an acceptable level of harmony. Moreover, while she acknowledges that the analyses carried out by NGOs will help in addressing the root

causes of religious tensions, she would encourage the civil society to provide the United Nations and other human rights mechanisms with more factual information on cases and situations of human rights violations.

8. Lastly, she would like to thank the staff member of the United Nations Development Programme (UNDP) in Abuja who assisted in organizing logistical and other practical aspects of her visit. She regrets, however, that UNDP denied her the facilities to hold a press conference at the end of her visit.

9. During her visit and in the present report, the Special Rapporteur has concentrated her analysis on the situation of freedom of religion or belief in Nigeria, including in the light of the application of sharia penal codes adopted by several states in the north and of instances of communal violence that have taken place in Nigeria over the last few years. Within the scope of her mandate, the Special Rapporteur, in visiting Nigeria, addressed not only the right to freedom of religion of religious communities, but also the right to freedom of religion or belief of individuals within those communities, as well as situations where religion has been used - or misused - for purposes that are inconsistent with human rights.

## **I. POLITICAL AND LEGAL BACKGROUND**

### **Legal system and political structure**

10. The Federal Republic of Nigeria, which gained its independence from Great Britain in 1960, adopted a new Constitution in 1999, marking the completion of the peaceful transition to a civilian Government after nearly 16 years of military rule.

11. The Federal Republic consists of 36 states, plus the Federal Capital Territory of Abuja. The system of government is structured in three tiers: federal, state and local. The states enjoy a high degree of autonomy. The three arms of the Federal Government are the executive, headed by the President and Commander-in-Chief, a bicameral National Assembly and the judiciary. Ministers are appointed by the President. There are 360 seats in the House of Representatives and 109 seats in the Senate. The People's Democratic Party (PDP) is the largest party, with approximately 60 per cent of seats in both Houses. The main opposition party is the All-Nigerian People's Party (ANPP).

12. The Nigerian legal system is based on three sources: common law, sharia and customary law. The three systems operate in parallel to each other. The judicial branch includes the Supreme Court and the Federal Court of Appeal. Subordinate courts are established by state authorities.

13. The National Human Rights Commission (NHRC) of Nigeria was established in 1995 and the Federal Government is developing a National Action Plan for the promotion and protection of human rights in Nigeria through the NHRC.

### **International human rights obligations and mechanisms**

14. Nigeria is a State party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of

All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child and its two Optional Protocols.

15. By resolution 1997/53, the Commission on Human Rights invited its Chairman to appoint a Special Rapporteur on the situation of human rights in Nigeria with a mandate to establish direct contacts with the authorities and the people of Nigeria and to report to the General Assembly and the Commission. Soli Jehangier Sorabjee (India) was appointed as Special Rapporteur on 16 October 1997. The Special Rapporteur submitted three reports to the Commission on Human Rights and General Assembly before the termination of his mandate in 1999 (E/CN.4/1998/62, E/CN.4/1999/36 and A/53/366 and Add.1).

16. The Special Rapporteur on freedom of religion or belief is the first thematic special procedure of the Commission to carry out a visit in the country. It is expected that she will be followed by other special procedures mandate holders, which will provide an opportunity for the Government of Nigeria to receive an objective assessment of certain aspects of the human rights situation in the country and to improve its human rights record and capacity accordingly.

## **II. RELIGION AND BELIEF IN NIGERIA**

17. In Nigeria religion undoubtedly has a very important place in the daily lives of its citizens. A significant majority of Nigerians are not only believers but regularly attend religious services and are active members of their religious communities. For these reasons, religions also constitute a very sensitive feature of today's Nigeria.

18. According to different sources, approximately half of the population is Muslim, about 40 per cent is Christian and the remaining 10 per cent practice traditional African religions or other beliefs, or have no religion. Religious affiliation is usually but not always linked to ethnicity. While most Hausas/Fulanis are Muslims, Yorubas and Igbos are mainly Christians. Geographically, the majority of the population of the north of the country is Muslims while most of the Christians live in the South. States of the so-called "middle belt" have both Christians and Muslims in different proportions.

19. Most Muslims are Maliki Sunnis, but there are other Muslim groups like Shias and Ahmadiyyas. The Ahmadiyya community is mainly located in the South. Christian denominations include Roman Catholics, Anglicans, Methodists, Presbyterians, Pentecostals, Evangelicals and the Organization of African Indigenous Churches.

20. Despite her efforts, the Special Rapporteur has not been able to meet with official representatives of traditional religions,<sup>2</sup> although she did meet with individual practitioners. Christian and Muslim issues and concerns overwhelmingly dominate the agenda, so that there is not much room for members of other faiths, whose voices are rarely heard. More significantly, most of the Special Rapporteur's interlocutors either expressed disdain for or mocked the followers of traditional religions or minimized their numbers.

21. The reality, however, is that, according to many, a significant portion of people calling themselves Christians or Muslims have not completely abandoned traditional religious practice, although sometimes more for cultural than for religious reason. As one editorialist put it,

“[t]he adherents of the two big religions give the impression that Nigeria and Nigerians are all about Islam and Christianity. They go on the defensive as if the existence of other religions is the failure of Islam and Christianity. The truth of the matter is that Nigeria is not only about Islam and about Christianity”.<sup>3</sup>

22. Similarly, there does not seem to be any place for those who have yet different types of belief or who do not believe in anything.

23. There has not been a census in Nigeria since 1991, but there have been suggestions that one should be organized since 2002. The issue of the census is very controversial, in particular concerning whether a question on religion should be included. The Christians, who usually believe that they account for more than 40 per cent of the population, consider that religion should be part of the census so that their numbers could be determined, but the Muslims, in particular the Ahmadiyyas, oppose this idea.<sup>4</sup> The Special Rapporteur has not received further information from the Government in this regard.

24. An important aspect of religious life in Nigeria is that many families include members from both the Muslim and Christian communities, including because of interfaith marriages. This explains the very moderate approach of some Christians and Muslims in the face of more radical discourse by some religious leaders.

25. Because of this reality, it is significant to note that a portion of the civil society has initiated a real dialogue between the two communities. A number of NGOs, while being identified, because of their members, with one or the other community, have contributed to promoting a culture of tolerance and trust between Muslims and Christians. Also, the Special Rapporteur heard testimonies of acts of humanity that took place during the riots in Jos and Kaduna, where people helped to save others regardless of their religious affiliations. However, this has not prevented the serious conflicts that have opposed Christians and Muslims during the last few years, during which several thousand people have been killed.

### **III. LEGAL FRAMEWORK**

26. The 1999 Constitution develops in unequivocal terms the principles of freedom of religion or belief. Article 38 of the Constitution provides:

“Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

“No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction ceremony or observance relates to a religion other than his own, or religion not approved by his parent or guardian.

“No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

“Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society.”

27. It is to be noted that this constitutional provision specifically provides for the right to “change” religion,<sup>5</sup> a provision that has some implications that will be developed in section V below.

28. Moreover, the last paragraph of article 38 refers to the prohibition of secret societies, which are defined in article 318 as:

“any society, association, group or body of persons (whether registered or not) (a) that uses secret signs, oaths, rites or symbols and which is formed to promote a cause, the purpose or part of the purpose of which is to foster the interest of its members and to aid one another under any circumstances without due regard to merit, fair play or justice to the detriment of the legitimate interest of those who are not members; (b) the membership of which is incompatible with the function or dignity of any public office under this Constitution and whose members are sworn to observe oaths of secrecy; or (c) the activities of which are not known to the public at large, the names of whose members are kept secret and whose meetings and other activities are held in secret”.

29. Secret societies are also called “cults” and are usually formed by students at Nigerian universities. In recent years, these cults have allegedly committed a number of serious criminal offences, including murders, which have been appropriately addressed by the Government. Nevertheless, the Special Rapporteur has received reports according to which authorities had sometimes destroyed shrines which were thought to be related to the commission of criminal offences, but she has not been able to verify them.

30. In addition to protecting the right to freedom of religion per se, the Constitution provides, in its article 10, that “[t]he Government of the Federation or of a State shall not adopt any religion as State religion”. This provision, intended to preserve the multireligious character of Nigeria, is creating much controversy at a moment when sharia penal codes are being adopted in a number of states (see sect. V below).

31. Finally, a number of constitutional provisions, such as article 42, also provide for safeguards against different possible forms of discriminations on the basis of religion.

32. Besides constitutional provisions, sections 204 and 205 of the Criminal Code Act of Nigeria provides for a number of offences relating to religious worship. These provisions give specific protection to some aspects of the manifestation of religion, including with respect to clergy. The Special Rapporteur notes that the wording of these provisions gives them a potentially large scope of application which, if interpreted broadly, could lead to certain abuses, including in terms of freedom of religion. Nevertheless, she has not received any credible information that the use of this legislation may have caused violations of the right to freedom of religion.

#### **IV. SITUATION OF THE RIGHT TO FREEDOM OF RELIGION OR BELIEF**

##### **Governmental policy and religion**

33. The Government of Nigeria generally does not deliberately violate the right to freedom of religion or belief. Although Nigerian authorities have often limited or restricted important religious gatherings or religious ceremonies or, in some places, prohibited the use of microphones, in order to prevent interreligious tensions, the Special Rapporteur has not received indications of the existence of a policy that would directly limit the right to freedom of religion or belief of Nigerians.

34. This however does not mean that Nigerians do not suffer from violations of their right to freedom of religion or belief (see paras. 39-45 below) and that the Government fulfils its obligations in terms of freedom of religion or belief. There are indeed strong and consistent indications that violations of this particular right occur in many parts of Nigeria and are either committed by non-State actors - or are the consequences of acts committed by non-State actors - or indirectly result from the Government's policy or, on the contrary, from the absence of appropriate measures to protect.

35. It would therefore be wrong to consider that in the apparent absence of direct violations of the right to freedom of religion or belief by the Government, that it is relieved of its international obligations related to this and other rights. As the Special Rapporteur and her predecessor have recalled in many reports to the Commission on Human Rights or to the General Assembly, the internationally accepted standards of freedom of religion or belief include a relatively extensive catalogue of positive obligations.<sup>6</sup>

36. Many of the Special Rapporteur's interlocutors from all religious communities agreed that the Federal Government as well as state governments interfered excessively with the religious life of Nigerians. For most of them, this attitude is the main explanation for the current problems faced by religious communities in Nigeria. Some examples of this interference are the selective subsidizing of religious communities, including by financing pilgrimages for both Christians and Muslims, the use of public money to build places of worship and the appointment of persons to government positions or in public services on the basis of their religion.

37. In this context, state governments tend to follow the opinion of the religious majority living within their jurisdiction and guide their policy according to the wishes of this majority. Partly as a result of this policy, authorities are said to use religions to achieve their own political agendas. Particularly in the so-called "middle belt" states where the population is relatively mixed, members of state governments are usually drawn from the predominant religious community in the state. Key positions are held by members of the majority and only a few members of religious minorities are represented in the administration.

38. One positive measure taken by the Government in terms of interreligious dialogue has been the creation of the Nigerian Inter-Religious Council (NIREC), which has been charged with the responsibility of promoting the ideals of peaceful coexistence, especially among the various religions of the country. However, many of the Special Rapporteur's interlocutors expressed their doubts about the achievements of this Council.

### **Complaints about violations of the right to freedom of religion**

39. Both Christians and Muslims complained of limitations on the right to freedom of religion or belief suffered by members of their respective community. Generally, the limitations affecting Muslims usually occurred in areas inhabited predominantly by Christians while the limitations affecting Christians occurred in predominantly Muslim areas. Most of the time, the limitations were imposed by either non-State actors, in particular religious groups, or state governments, or a combination of both, but rarely were there complaints of limitations imposed by the Federal Government, apart from those restricting rights in situations that could potentially foment religious violence. Nigerians who are neither Muslim nor Christian complain of neglect by the Government and of being “overpowered” by the tensions between the Muslim and Christian communities.

40. In the majority of cases, Christians linked the limitations and violations that they were suffering to the adoption and implementation of sharia penal codes in a number of northern states (see sect. IV below). Sometimes, Muslims also claimed that limitations or violations of their rights were also due to the adoption of sharia penal codes (see next section), either because of retaliatory measures taken by Christians or because they could be subjected to a judicial interpretation of sharia which may not be acceptable to them.

41. A number of Muslims complained of being portrayed as “barbaric”, “militants” and “anti-women”. They were deeply hurt by this stereotyping in some national and international media. They alleged that they were not adequately represented in the police service or the armed forces. In addition, they pointed out that they were poorly represented at the peace conferences held in the Plateau region. In their defence, they gave examples of the tolerance shown by their community: Sunday rather than Friday had since time immemorial been accepted as the weekly national day of rest, and there were more Christian foreign missionaries in Nigeria than Muslims. Others who were uncomfortable with the recent introduction of sharia in the northern states feared further backlash because the “open-ended monopoly of interpreting sharia” had been left in the hands of poorly-trained judges.

42. It seems that the grave outbreaks of intercommunal violence that have unfolded along religious lines have provoked real tensions between religious communities and generated the imposition of numerous de facto and de jure limitations on the manifestation of religious belief by one or the other group. The Special Rapporteur has noted, particularly in Kaduna and Jos, that the mere existence of these tensions has created a climate of unease and, for a number of people, a real fear of openly manifesting their religion, for example by wearing certain dress or participating in public religious events. Some Muslim scholars and lawyers complained that they dared not openly criticize the substance or implementation of the sharia penal provisions. These tensions therefore undoubtedly limit the freedom of religion or belief of a number of Nigerian citizens.

43. In many cases, the examples of limitations brought to the attention of the Special Rapporteur were related to the building of places of worship, or their confiscation or transformation for a different purpose. Although it appeared that restrictions on building were justified by invoking zoning laws, it was often claimed that the zoning laws were usually not closely followed and that only in the case of places of worship were the regulations applied,

resulting sometimes in the complete destruction of the places built. In some instances, the difficulties related to the construction of a place of worship have been resolved through the mediation of an organized interreligious dialogue at the local level.

44. In many places the climate of fear created by religious tensions and violence has prevented Nigerians from fully enjoying their right to practise and manifest their religion. Freedom of religion or belief, like other human rights, is properly enjoyed where a satisfactory level of security exists. If one is afraid to leave home to go to church or to go outside in Muslim dress, freedom of religion is restricted even though not directly imposed by the authorities, or even by members of another religious community.

45. The level of insecurity in certain areas of Nigeria can also be attributed to religious reasons, which makes the right to freedom of religion even more vulnerable. Nigerians can legitimately claim that they do not feel secure to freely practise their religion because they may feel targeted because of their religious identity. The Special Rapporteur notes in this regard that a similar conclusion was reached by the Human Rights Committee in its concluding observations of 24 July 1996, in which it stated that “[i]nter-ethnic and inter-religious violence which persist in Nigeria appear to affect adversely the enjoyment of rights and freedoms protected by the Covenant”, which includes the right to freedom of religion (CCPR/79/Add.65, para. 6).

46. For these reasons, and also those related to the adoption of sharia penal codes in several states, the Special Rapporteur is of the opinion that the level of enjoyment of the right to freedom of religion or belief is not satisfactory. Moreover, she is concerned that the increase in religious tensions may further hamper the enjoyment of this right among the Nigerian population.

## **V. THE IMPLEMENTATION OF SHARIA IN CRIMINAL MATTERS**

### **Background and nature of sharia**

47. Since 1999, the legal and religious picture of Nigeria has significantly changed, in particular because several states of the north have decided to extend the scope of application of Islamic law to include criminal matters (hereafter “Islamic criminal law”) through the drafting and adoption of sharia penal codes.

48. The first to take this path was Zamfara State in 1999. It was quickly followed by 11 other states, in the north and populated by a majority of Muslims: Kano, Katsina, Niger, Bauchi, Kaduna, Sokoto, Borno, Gombe, Kebbi, Jigawa and Yobe. While most of these states already applied Islamic law in certain civil matters, mainly personal law, they used the Zamfara sharia penal code as model, except for relatively minor points. Many commentators have in this regard pointed to the fact that a number of these codes had been adopted in haste and contained mistakes and inaccuracies, or were incomplete.

49. A common feature of these new legal systems and an argument often used in support of their application is that they are only applicable to Muslims, people from other faiths remaining subject to the old penal code. It has, however, been mentioned that in some cases, non-Muslims may opt for the application of Islamic laws, including in the cases where sentences are lighter than those of the otherwise applicable general law.

50. Among other provisions, these sharia penal codes provide for a mandatory death penalty as Hadd punishments<sup>7</sup> for criminal offences such as zina,<sup>8</sup> rape, sodomy and incest.

51. Many of the Special Rapporteur's interlocutors including Muslims, supported the view that sharia penal codes had been introduced by state authorities seeking to please their populations. Others maintained that the extension of sharia was a result of the Government's failure to address the real problems of Nigerian society. Muslims had progressively turned their backs on the non-religious way of organizing their lives and had found in Islam an appropriate response to their concerns as citizens. An introductory note to the sharia Penal Code of Zamfara State by the state Attorney-General says that the "inefficacy and failure of the Common law ... provide yet another cogent reason and justification for a radical departure in favour of a remodelled Sharia-oriented Penal Code". He admitted that "the sharia issue endures as the most debated and controversial issue in Nigeria". He explained that the law adopted in Zamfara was based on the Maliki school and inputs to the bill had included visits to the Sudan and Saudi Arabia.

52. A large number of Nigerian Muslims support the imposition of sharia. A number of Muslim leaders emphasized that sharia was a way of life for all Muslims and its non-application would deny Muslims their freedom of religion. In Nigeria sharia was only applicable to Muslims; therefore, it was argued, it did not in any way limit the freedom of religion of non-Muslims. In addition, a number of Muslim leaders believed that English common law had its roots in canon law, making Muslims subject to a legal framework based on non-Muslim norms. Muslim personal law<sup>9</sup> has always been applied in Nigeria. On the other hand, after several years of application, Islamic criminal law has created various problems and is far from enjoying unanimous support, even among Muslims. The Special Rapporteur will limit her report to those laws (regardless of their origin) that fall within the terms of her mandate.

### **Implementation of sharia and religious minorities**

53. The speed with which the sharia penal codes were adopted has led to many difficulties and concerns regarding their practical implementation. Judges, it was contended, had not been sufficiently trained, a concern because, at the first level of sharia courts, judges do not have to be lawyers. In some cases, following the adoption of these new codes, rules of evidence and procedure had either been disregarded or not correctly followed; defendants had been deprived of legal representation and convictions were arrived at in haste; some defendants did not understand what they were being tried for or the implications of their trials. In this respect, a lack of understanding of the operation of the Nigerian sharia penal codes as well as a lack of awareness about the rights and obligations under Islamic law in general, in particular concerning women or vulnerable groups, is a real source of concern.

54. A particularly alarming development in the implementation of sharia has been the institutionalization of enforcement bodies known as Hisbah, composed of young, untrained Muslim civilians, whose role is to enforce the principles of Islam. Their activities have resulted in a number of violent, arbitrary and other illegal acts, especially against non-Muslim women, which in many cases amounted to human rights violations.

55. The strongest reactions to the implementation of sharia penal codes has evidently come from the religious minorities living in the states concerned, in particular the Christians, even though these laws are not applicable to them. Their main accusation is that the practical

implementation of sharia may in a number of situations indirectly violate their rights or create discrimination of which they are victims. In this respect, new regulations like the banning of alcohol or segregated public transport indirectly limit their freedom, as they prevent them from living according to their own standards. In states like Zamfara, where the intention is to implement the principles of sharia strictly, segregated transport, health services and public schools have been established, which Christians claim violates their freedom.

56. Indeed, while Christians or other religious minorities are not expected to observe themselves practise like fasting on Ramadan, they are compelled to close restaurants and eating places during that period. This situation therefore subjects them, at least partly, to a religious obligation by obliging them to eat in their homes. This obligation also reportedly constitutes a significant economic loss for the non-Muslims engaged in the restaurant sector of the economy.

57. Another difficulty of implementing sharia penal codes in places of mixed population is that it is almost impossible to draw a clear line between who is and is not subject to sharia. For instance, in all interfaith relationships the fact that the Muslim partner may be subject to sharia sanctions while the non-Muslim partner is not will nevertheless affect the entire family. Thus, the application of certain prohibitions affects the rights of non-Muslim populations.

58. Concerns have also been raised that the practical application of different legal system could result in discrimination on the basis of religion, for example where offenders are from different religious backgrounds and therefore subject to different procedural rules or tried in different courts. Sharia rules of evidence restrict non-Muslims from deposing in Hadd trials under sharia penal codes. Penal sanctions for the same offence apply according to the religion of the accused, rather than the severity of the crime. To address selective discrimination on the basis of religion, sharia allows a non-Muslim the option of being tried under sharia penal codes. A number of non-Muslims have argued that they are left with little option but to agree to be tried under sharia penal codes, where tazir punishments<sup>10</sup> are less severe for the same crime. Thus, they are indirectly forced to acknowledge a system of law, which in its totality is not in conformity with their religious beliefs.

59. In some cases, Christians have complained about difficulties in obtaining land and accommodation or disproportionate delays in receiving permission to build places of worship or nurseries. There have been complaints of restriction on denial of access to airtime on state radio and to public schools or universities unless Christian applicants change their names to Islamic names. It is charged that local governments spend disproportionate amount of money for implementing sharia, also discriminating against Christians. In this regard non-Muslims reported that zakat<sup>11</sup> money was not available to them.

60. Finally, the implementation of sharia in northern states has also allegedly had a considerable impact on freedom of expression, in particular for the non-Muslim minorities. Indeed, people feel reluctant to criticize sharia and open debate on the question of religious laws has been discouraged, leading to de facto self-censorship.

### **Sharia and the Constitution**

61. A main problem raised by the adoption of sharia penal codes in Nigeria is one of constitutionality. As underlined above, article 10 of the Constitution provides that “[t]he

Government of the Federation or of a State shall not adopt any religion as State Religion". Many detractors of these codes consider that making religion the only basis for regulating the behaviour of Muslim citizens in the society, including with regard to criminal matters, is equivalent to adopting a state religion.

62. Other constitutional problems are often raised with respect to the compatibility of sharia penal codes with certain fundamental rights protected by the Constitution, including the prohibition of torture or inhuman and degrading treatment, the prohibition of discrimination on the basis of sex or religion, equality before the law, certain rules of due process and, in particular, the right to change religion.

63. In 2002 the Federal Minister of Justice sent a letter to the northern states that had adopted sharia penal codes pointing out that those laws were unconstitutional on different grounds; however, there has so far not been a constitutional challenge of the sharia penal codes at the Supreme Court level or before the Federal Court of Appeal. This may be explained by various reasons, including the fact that many sentences pronounced by subordinate sharia courts are usually quashed on appeal and that only persons who have a *locus standi*, that is an interest in filing a case because they have been personally affected by the application of these laws, may bring a constitutional claim before the Supreme Court. This therefore precludes non-governmental organizations or other entities from bringing such a case. But a few interlocutors of the Special Rapporteur have also raised the fact that the absence of constitutional challenge is also explained by the fear of most citizens subjected to Islamic laws to legally challenge sharia.

64. Sharia law advocates consider that the Constitution has given the states legislative authority to adopt criminal laws and that the constitutionally protected right to freedom of religion entitles citizens of Nigeria to decide whether they want to be governed by Islamic law. Some Muslims told the Special Rapporteur that only the Holy Koran had legal significance for them, and that there could be no other laws, including the Constitution, that could govern their lives.

65. So far, the Federal Government, except for the letter of the Minister of Justice mentioned above, has remained passive, sometimes claiming that any kind of intervention would rather worsen the situation. Moreover, a committee has been created by the Federal Government to draft a uniform sharia penal code and code of procedure for the states that have adopted Islamic criminal law, without achieving much progress so far.

### **Sharia in Nigeria and human rights**

66. The adoption of sharia penal codes by state governments, and in particular their application, pose various questions in terms of international human rights law.

#### *Torture and other cruel, inhuman or degrading treatment or punishment*

67. Probably the most often addressed question is the compatibility of certain forms of punishment prescribed by sharia penal codes with international human rights law, in particular those provisions that prohibit torture or cruel, inhuman and degrading treatment or punishment.

68. In this regard, in addition to the Human Rights Committee which stated in its general comment No. 20 that the prohibition of torture and cruel, inhuman or degrading treatment or punishment contained in article 7 of the International Covenant on Civil and Political Rights extends to corporal punishment, other United Nations human rights mechanisms have, on numerous occasions, declared the incompatibility of such forms of punishment with human rights provisions prohibiting torture and other forms of ill treatment.<sup>12</sup> The Special Rapporteur is of the opinion that punishments such as stoning or amputation constitute, if not torture, at least cruel, inhuman and degrading treatment<sup>13</sup> that is prohibited in absolute terms by various international conventions to which Nigeria is a party and which allow for no exception whatsoever.

*Equality before the law and non-discrimination*

69. Another human rights principle raising questions under the sharia penal codes is equality before the law. While it does not appear that sharia penal codes contain provisions that discriminate between men and women, the implementation of those codes in the northern states of Nigeria is in many ways to the detriment of women, the most notable illustration being the application by sharia courts of the principle that extramarital pregnancy constitutes proof of zina, even though no such principle is warranted under sharia penal codes as adopted in Nigeria.<sup>14</sup> This practice of the sharia courts is at the origin of a number of cases that have attracted worldwide attention and outcry.

70. Women judges cannot be appointed to the courts hearing trials under the sharia penal codes. A number of incidents were reported where women lawyers were discouraged from practising in these courts.

71. The rules of evidence under the sharia penal codes adopted in Nigeria discriminate against women and non-Muslims. Neither can testify in cases of Hadd punishments. The weight given to the testimony of women is not equal to that of men.

*The death penalty*

72. Article 6 (2) of ICCPR, to which Nigeria is a State party, provides, inter alia, that “[i]n countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes”. Besides, in general comment No. 6 on article 6, the Human Rights Committee clearly stated that “the expression ‘most serious crimes’ must be read restrictively to mean that the death penalty should be a quite exceptional measure” (para. 7). In addition, paragraph 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty provides that “[i]n countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or extremely grave consequences”.

73. Despite this obligation under international law, the Special Rapporteur notes with great concern that Nigerian sharia penal codes provide for death sentences for offences which do not fall into the category of the “most serious crimes”. Such a position has been taken by other United Nations human rights mechanisms, including with regard to Nigeria.<sup>15</sup>

74. The death penalty for children is prohibited under article 37 of the Convention on the Rights of the Child. While Hadd punishments are not per se applicable to minors, the Nigerian sharia penal codes define a child as being below the age of taklif.<sup>16</sup> However, according to the information submitted to the Special Rapporteur, no sentence of death has so far been passed against a child.

*The right to change religion*

75. In their present form, sharia penal codes adopted in northern states of Nigeria have not included the conversion from Islam to another religion among the offences punishable by death. This seems to be explained by article 38 of the Constitution (see para. 26 above), which expressly provides for the right to change religion or belief, but also by the reality of Nigeria, that is, as underlined above, the fact that in many places Christians and Muslims mix to a great extent and interfaith marriages are very common. In the Nigerian reality, it would thus seem difficult to enforce a rule that would completely segregate Muslims from Christians.

76. Nevertheless, leaders of the Muslim community maintained that sharia itself prohibits conversion from Islam to another religion and provides for the death penalty for this act. In this regard, it has been argued that nearly all the sharia penal codes of Nigeria (except in Kano State) provide that Muslims may be convicted for offences that are punishable under sharia itself even in the absence of a provision in the penal code. In addition to raising question under the principle of *nulla poena sine lege*, this provision opens the possibility of criminalization of conversion and therefore certainly raises concern about the right to freedom of religion or belief as protected by universally accepted human rights standards.

77. In addition, besides the legal aspects, the prohibition of conversion also appears to be well rooted in certain minds, especially of those who follow the principles of Islam strictly. A number of Muslim religious leaders whom the Special Rapporteur met categorically rejected the possibility of permitting Muslims to convert or to change their religion. They stated clearly that such persons should be executed. At the same time, they also contended that a Muslim woman could not marry a non-Muslim man. Such a marriage would be null and void in law and constitute the offence of zina. This means that interfaith marriages would no longer be possible in the states that have adopted sharia penal codes and that interfaith couples visiting those states would risk arrest and conviction.

78. The Special Rapporteur has also been informed of a number of cases where Muslim or Christian girls were allegedly “abducted” by members of the other religious community and forced into marriage.<sup>17</sup> While she has not been able to confirm these allegations, she considers it an obligation of the Government, at least at the local level, to ensure that consent to marriage is free. More generally, and in order to guarantee the - often claimed - multireligious character of Nigeria, there is a need to protect the right to freedom of religion or belief in this respect.

79. Finally, it is arguable that, Christians not being subject to sharia, their right to profess their religion is not at risk under sharia penal codes. However, the Zamfara State penal code provides in its section 406 (d) that “[w]hoever presides at or is present at or takes part in the worship or invocation of any *juju* which has been declared unlawful under the provisions of Section 405 will be punished with death”. Section 405 defines the terms “unlawful *juju*” as the worship or invocation of any subject or being other than Allah. While only applicable to Muslims, this

provision, which appears to be in clear contravention of the right to freedom of religion, may affect those who believe in traditional religions. It also disseminates a message of religious intolerance.

## VI. COMMUNAL VIOLENCE

### Analysis

80. Over the last few years, a number of violent riots and other attacks have occurred in several locations in Nigeria and caused the deaths of several thousand people, probably constituting one of the most serious human rights concern in the country. The Special Rapporteur will not provide a detailed description of these tragic events in the present report because she does not have the capacity to investigate the circumstances of large-scale events of this sort, and because a number of very detailed and well-documented reports have been written out by non-governmental organizations. Rather, she would like to focus her attention on the religious aspects of the killings and emphasize that religious violence is also an element of the overall situation of freedom of religion or belief in Nigeria as described elsewhere in the report.

81. The following instances of violence between Muslims and Christians in Nigeria are particularly relevant to her mandate:

- Between 21 and 25 February 2000 and between 22 and 23 May of the same year, at least 2,000 people were killed in Kaduna (and in the south of Nigeria as retaliation) as a result of the adoption of a sharia penal code by Kaduna State;<sup>18</sup>
- Between 7 and 13 September 2001, in Jos and surrounding areas of Plateau State, more than 1,000 people were killed after a Christian woman tried to walk through a praying Muslim congregation outside a Mosque;
- Between 21 and 23 November 2002, in Kaduna, 250 people were killed after a press article mentioned that the Prophet Muhammad would have approved the holding of the Miss World contest in Nigeria;<sup>19</sup>
- On 24 February and on 2 and 11 May 2004, at least 1,000 people were killed in a cycle of retaliatory violence in the town of Yelwa, Plateau State and Kano, Kano State.<sup>20</sup>

82. Most interlocutors at governmental level as well as from the civil society stated that those events were the result not only of religious intolerance but also, if not mainly, of political, economic and ethnic factors. In Jos, for example, the riots were explained as a conflict between the indigenous people and settlers and their respective rights, particularly in terms of land acquisition and property.

83. The Special Rapporteur notes that the reasons for this violence are manifold and complex, but she has also observed that in most cases the violence has unfolded along religious lines: it is noticeable that the instigators of this violence have found that they can gain more support if they put their arguments in religious terms. Religious beliefs not only constitute a very emotional issue in Nigeria, but also provide a relatively simple and easy way to identify an opponent.

84. These instances of violence are striking in their intensity. In each case, a great number of killings occurred in only a few days. This also shows that a very significant portion of the population took part in the killings or has been affected by them. For this reason among others, the killings are still very much in the minds of all those living in the places affected by the violence. So many people have been implicated in - and suffer from - the violence that a majority of the people in those places live in an atmosphere of fear, anger and sadness which, in a way, prevents the population from returning to normal life. In some places, the Special Rapporteur felt an atmosphere of real tension as if the violence had occurred more recently than it actually did.

85. In the many consultations held during her visit, especially with representatives of religious groups, the Special Rapporteur clearly felt a high level of tensions and strong indications that the situation could degenerate into a conflict of much larger intensity. Members of religious communities and representatives of non-governmental organizations often expressed their fear of further violence and their exasperation with regard to the current situation. Some of them even warned that members of one or the other community could not contain their frustration much longer and asserted that dissatisfaction and sometimes anger were affecting an increasing number of Nigerians.

86. A significant number of interlocutors at various levels and from different backgrounds confirmed that members of both Muslim and Christian communities were currently accumulating weapons, which they receive by different means, including from abroad. This is indeed alarming and sounds like a warning which must be heeded.

### **The Government's reaction**

87. The most striking aspect of this violence is the way the authorities responded to it. According to the majority of the reports submitted to the Special Rapporteur, the authorities in most cases did not initiate the mechanisms designed to prosecute the offenders and compensate the victims. Despite efforts, including numerous requests, to secure information, the Special Rapporteur has not received figures or other factual information on prosecutions initiated after the riots and remedies provided to the victims. On numerous occasions, the Special Rapporteur unsuccessfully tried to obtain from government officials copies of reports of commissions of inquiry that had been established by the Government to investigate the causes and circumstances of some of the riots.

88. On the contrary, the Special Rapporteur's interlocutors, including at the highest official level, claimed that the identification of the instigators of the riots as well as the assessment of damages suffered by the victims<sup>21</sup> were particularly arduous. It was argued that rather than prosecution and punishment, the promotion of peace and reconciliation was the authorities' priority.

89. The main significant measure taken by the Federal Government in recent times was the imposition of a state of emergency in Plateau State during the second half of 2004 after the killings in Yelwa in May.<sup>22</sup> While this had the effect of preventing further violence while it was in force, it is not known whether it has helped to address the root causes of the problem.

90. Finally, despite the periodic recurrence of such violence, no warning mechanisms seem to have been put in place or to function properly in spite of the high degree of predictability of some of the incidents.

## **VII. CONCLUSIONS**

### **Religious tensions**

91. With respect to the religious tensions existing in Nigeria, the Special Rapporteur has noted that while numerous interlocutors claimed that religion per se was not the cause of tension and violence, conflicts have nevertheless unfolded along religious lines and that increasingly, most societal attitudes and behaviours are translated into religious terms, a phenomenon that exacerbates the differences between religions and creates a climate of religious intolerance. The situation is aggravated by the political manipulation of these differences that is widely claimed to take place. Today, religious identity takes precedence over almost everything else.

92. The Special Rapporteur wishes to take the opportunity of this report to draw attention to the developments that are taking place in Nigeria so that appropriate action can be taken before a wider crisis erupts.

### **Government policy**

93. The policy of interference by the Government and local authorities in religious matters, including by selectively subsidizing different forms of manifestation of religious belief, contributes to overemphasizing religious differences instead of helping to find a common ground between communities or allaying tensions.

94. The Special Rapporteur is concerned in this regard that the Government may have oriented its policy in the wrong direction. While it has not hesitated so far to give important support to manifestations of religion by building places of worship or financing pilgrimages, it has often proved reluctant to take a firm stand on religious practices that could be harmful to human rights or take appropriate action with regard to religious violence, for fear of offending one or the other religious community. This policy has unfortunately led to the current situation where the distances between Christians and Muslims are growing and isolating them from each other.

### **Justice and promotion of religious tolerance**

95. The Special Rapporteur is of the opinion that there cannot be a lasting solution without proper justice for the perpetrators and victims of all acts of violence on religious grounds that have occurred. A climate of impunity can only encourage those who plan to foment further violence, whatever their motivations may be, and reinforce the feeling of injustice of the victims, thereby paving the way for retaliatory action. Impunity further strengthens the fears of those who have been affected by previous instances of violence and inherently limits the enjoyment of their right to freely manifest their religion or belief. In the context of this mandate, reports have often pointed out that perpetrators who enjoy impunity, even for well-intentioned reasons, remain active in keeping religious tensions alive. Impunity therefore only escalates religious intolerance.

96. A long-term effort to promote respect and tolerance, including religious tolerance, among members of the Nigerian society is necessary to gradually erase the tensions and misunderstandings between Muslims and Christians. For that purpose, measures at the Federal level have to be complemented by mechanisms at the local level. In this regard, the Special Rapporteur has been encouraged by grass-roots initiatives which aim at building bridges between communities and help them to understand each other's concerns. Other local measures aimed at finding solutions to specific disputes through dialogue between communities are also an essential means of opening minds to other forms of conflict resolution that are particularly appropriate in the Nigerian context.

97. The Special Rapporteur further emphasizes that those different kinds of measures should contribute to the establishment of an early warning system, which seems to be imperative in the current situation.

98. The Special Rapporteur considers that reports according to which members of both communities are arming themselves, whether for defensive purposes or for future aggression, constitute a sign that there remains a willingness to provoke or accept more violence. While the authorities have reacted by taking some appropriate actions in this regard, a more comprehensive policy should be adopted to address this particularly worrying development. While in most instances of violence, attacks were carried out with no arms or with objects used as weapons, it is clear that the alleged stocking of proper weapons can only increase the scale of future violence and the number of casualties.

#### **Sharia penal codes**

99. On the questions related to the application of Sharia to criminal matters, the Special Rapporteur wishes to emphasize that the human rights concerns related to the adoption of penal codes on the basis of religious laws are not a question of religion per se, but of determining the compatibility with human rights of specific regulations and their application in a given legal system, in particular the right to freedom of religion or belief. The purpose of the Special Rapporteur in this respect is neither to make a judgement on nor to analyse or interpret the content of a religion, but to assess the impact of a legal system based on religious laws from a human rights perspective.

100. The Special Rapporteur considers that the legal systems such as have been adopted by a number of states in Nigeria contain provisions that raise concern in terms of human rights. Certain forms of punishment contained in the sharia penal codes, such as amputation or stoning, constitute treatment that is contrary to universally recognized norms prohibiting torture and other degrading, cruel and inhuman treatment or punishment, including international conventions to which Nigeria is a party. Moreover, it was underlined above that certain provisions as well as the practice of some sharia courts appeared to be in contravention of the principle of *nulla poena sine lege* and of equality before the law. Finally, the possibility, at least in theory, that Muslims could be convicted and sentenced to death because they converted to another religion would constitute a clear violation of the right to freedom of religion or belief.

101. In response to the above concern, it has been emphasized by some state officials that the majority of Hadd sentences are usually quashed at the appeal level and are therefore never ultimately implemented. The Special Rapporteur would like to stress that such a defence does

not represent a satisfactory response to the human rights concerns at issue and does not relieve Nigeria from its international human rights obligations. Indeed, the mere existence of a norm that contradicts human rights standards is sufficient to create a climate of fear among members of the Nigerian population, including Muslims and in particular the poorest part of the population which may not have a correct understanding of the legal system to which they are subject. This climate of pressure and intimidation also has an impact on those Muslims who have a different interpretation of their religion: This may constitute an unlawful limitation to the right to freedom of religion or belief.

102. Moreover, it has been reported that the actual implementation of numerous rules provided for by these new legal systems were affecting and, in some cases, limiting the rights of members of religious minorities, including their right to freedom of religion or belief. The Special Rapporteur recalls in this regard general comment No. 22 of the Human Rights Committee according to which “[i]f a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it” (para. 10).

## VIII. RECOMMENDATIONS

### General policy with regard to religions

**103. With regard to the general policy of the Government of Nigeria vis-à-vis religion and belief, the Special Rapporteur recommends that the Government adopt a more careful approach when it comes to supporting one or the other religious community and consider the possibility of refraining from interfering with religious matters whenever these do not endanger human rights. At the same time, the Government should take very firm positions whenever religion is at the origin of human rights violations, regardless of which religious community is concerned.**

**104. The Government should further strengthen the existing inter-religious dialogue to address the overall objective of promoting religious tolerance, and therefore extend the scope of the dialogue and increase the number of stakeholders in the process. Such initiatives must link local dialogues to the national scene so that signs of trouble are detected early and resolved before violence breaks out. Such dialogue would further create better understanding and accommodation. It must include women and members of civil society so that their concerns are also heard.**

**105. The Government should also take concrete steps to strengthen the education system throughout Nigeria in order for children to receive teaching on religious tolerance.**

**106. The Government should reassess its position with regard to traditional religions as well as other forms of religion or belief. Adherents of traditional religions should be given a place in the mainstream policy and be represented in institutions and other forums that deal with religious matters.**

### **Sharia penal codes**

107. **With respect to the sharia penal codes adopted by states in the north, the Federal Government has the obligation to respect the international human rights conventions to which it is a party and therefore ensure, as a priority, that the laws of the nation, whether local or federal, are in conformity with these conventions. In this regard, the Special Rapporteur recommends that the Federal Republic of Nigeria carry out an assessment of all the laws in force and analyse their compatibility with international human rights law.**

108. **In particular, the Special Rapporteur insists that the Government should ensure within the context of freedom of religion and freedom of expression that Nigerians can express themselves and dissent even within their religion without fear of any form of retaliation or threat. This is especially important in a context where it is religion rather than general laws that is governing human behaviour. In that context, the State must ensure that there is a space for dissent.**

109. **In this respect, and taking into account the absence so far of any constitutional challenge at the Federal Court level of sharia penal codes and their implementation, the authorities of Nigeria should ensure that appropriate mechanisms are put in place so that citizens who are willing to contest the constitutionality of these laws are neither attacked nor threatened or intimidated.**

110. **The rights of members of religious minorities should be systematically monitored and protected whenever regulations - whether or not adopted in the name of religion - affect the enjoyment of their rights.**

111. **As a matter of urgency, the Special Rapporteur calls upon the Government to take all necessary measures to put an end to the practice of Hisbah, including by declaring these groups outside the law and investigating any particular act they have committed that may amount to a human rights violation.**

### **Religious tensions and communal violence**

112. **With respect to religious tensions and communal violence, the Special Rapporteur is of the opinion that the obligation of the Government of Nigeria is first and foremost to ensure that justice is done promptly and properly. This obligation should include a full investigation of the violence that occurred, including the identification and prosecution of alleged perpetrators, allowing victims to file proper claims for the damage they have suffered, and recognizing their proper status as victims in trials as well as awarding them appropriate compensation.**

113. **The Government should also abide by its basic obligation to ensure the protection and security of religious groups which may be targeted and which should be entitled to practise their religions freely and without any obstacles, including those created by non-State actors. The Government should reassess the efficiency of its mechanisms in order to be able to intervene in a timely and proper manner when such violence occurs. Early warning mechanisms should also be strengthened.**

**114. The mechanisms created by the Government to promote interreligious dialogue should be strengthened and extended. In particular, they should ensure that religious leaders of all communities can participate and involve the civil society. Mechanisms at the local level should be created in as many places as may require them because of the composition of the population, past experience, or any other indication of possible religious tensions.**

**115. The Government should also increase its support for such initiatives coming from the civil society and disseminate principles of good practice.**

### Notes

<sup>1</sup> The umbrella organization for Muslims of the north of Nigeria.

<sup>2</sup> The words “traditional religions” refer, in this report, to traditional African religions.

<sup>3</sup> Ethnic and Religious Rights (an NGO publication), September 2004, p. 3.

<sup>4</sup> The Ahmadiyyas fear that an indication of the religious affiliation in the census could lead to demands to declare them non-Muslims. Some Muslim leaders have indeed expressed the belief that Ahmadiyyas should not be considered Muslims.

<sup>5</sup> While under several authoritative interpretations the terms of article 18 of the International Covenant on Civil and Political Rights are meant to include the right to “change” religion, the article does not expressly contain this right. See general comment of the Human Rights Committee No. 22, para. 5 (“The Committee observes that the freedom to ‘have or to adopt’ a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one’s current religion or belief with another or to adopt atheistic views, as well as the right to retain one’s religion or belief.”); see also Manfred Nowak, *CCPR Commentary* (2<sup>nd</sup> revised edition), 2005, p. 414.

<sup>6</sup> See E/CN.4/2005/61, para. 75; E/CN.4/2004/63, para. 148.

<sup>7</sup> Hadd punishments are fixed and only applied under very strict and restricted requirements of evidence.

<sup>8</sup> The offence of zina consists of acts of sexual intercourse outside marriage. It includes adultery.

<sup>9</sup> Personal law includes laws regarding inheritance, divorce, marriage, custody, etc.

<sup>10</sup> All punishments other than Hadd punishments which take into consideration mitigating circumstances and where rules of procedure may be less rigidly applied.

<sup>11</sup> Money collected for charity to the disadvantaged.

<sup>12</sup> See for instance, the report of the Special Rapporteur on Torture submitted to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/7, para. 6); concluding observations of

the Committee against Torture on the initial periodic report of Saudi Arabia, 12 June 2002 (CAT/C/CR/28/5, para. 4 (b)); report of the Special Rapporteur on violence against women, its causes and consequences, submitted to the Commission on Human Rights at its fifty-ninth session (E/CN.4/2003/75, para. 68) and (E/CN.4/2003/75/Add.1, para. 460).

<sup>13</sup> The Special Rapporteur emphasizes in this regard that she does not wish to make a distinction between torture and other forms of ill-treatment, including because such a consideration is outside the scope of her mandate. She would limit herself to consider these acts as contrary to article 7 of the ICCPR.

<sup>14</sup> See, for instance, E/CN.4/2003/75, para. 68.

<sup>15</sup> See the interim report of the Special Reporter on extrajudicial, summary or arbitrary executions (A/59/319, para. 56).

<sup>16</sup> The age of attaining legal and religious responsibilities.

<sup>17</sup> A similar concern was raised by the Committee on the Rights of the Child in its concluding observations on the second periodic report of Nigeria, 28 January 2005 (CRC/C/15/Add.257, para. 54).

<sup>18</sup> See E/CN.4/2001/63, para. 104. While the communication of the Special Rapporteur mentioned approximately 500 casualties, reports have since then demonstrated that the number of persons killed certainly exceeded 2,000.

<sup>19</sup> See A/58/296, para. 80. *Idem* for the number of casualties which should rather be estimated at 250.

<sup>20</sup> See the addendum to the report of the Special Rapporteur on freedom of religion or belief (E/CN.4/2005/61/Add.1, para. 174).

<sup>21</sup> In this regard, it was mentioned to the Special Rapporteur that the National Emergency Management Agency (NEMA) of Nigeria had provided humanitarian assistance to the victims of the riots.

<sup>22</sup> See E/CN.4/2005/61/Add.1, para. 174.

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