The Case of Bagauda Kaltho: Perpetuating A Culture Of Impunity

The August 18 announcement by the Chairman of the Task Force on Terrorist Activities, Alhaji Hassan Zakari Bui, that the Kaduna correspondent of The News magazine, Bagauda Kaltho, who disappeared in 1996, died at a bomb blast scene shocked the journalism world to its foundations.

But it has also raised a number of questions which the Federal government curiously seems reluctant to answer or investigate, as it is obliged to do under applicable international human rights instruments such as the United Nations Declaration of the Protection of Persons from Enforced Disappearances.

When Kaltho disappeared early in 1996, he was believed to have been arrested by security agents who had been on his trial over stories he wrote in connection with the alleged coup plot of March 1995 over which four other journalists, including the editor of The News, Kunle Ajibade, were detained, subsequently tried and imprisoned for 15 years each.

He had complained to his employers that security agents in Kaduna had launched a manhunt for him. He was therefore asked to leave Kaduna and relocate to Lagos, which he did.

He remained in hiding in Lagos for some time until, following a feeling that the hunt for him had eased, he was redeployed to Abuja to replace the magazine’s Bureau Chief there, Alex Kabba, for whom Abuja had become unbearable following acts of harassment and intimidation by security agents. Kaltho disappeared shortly afterwards.

In the months thereafter, the fact of his disappearance was widely reported in the media as well as in local and international human rights publications. He was reported to have been arrested and detained at the Yakubu Gowon Military Barracks in Abuja and security agents neither confirmed nor denied the reports.

However, on August 18, 1998, Bui announced in Lagos that police investigations had revealed that Kaltho was the unidentified person who died on the scene of the bomb blast at Durbar hotel in Kaduna on January 18, 1996 while trying to place the explosive device.

To support his claim, Bui said at a press conference that the photograph of Kaltho which the security agents collected from his wife, when compared with that of the body found at the bomb blast scene, showed that the unidentified body was the same person as Kaltho.

Bui also showed journalists a video tape of an interview with General Muhammed Buhari which was aired by the Bauchi Television Authority in 1994, saying the tape was found at the scene of the blast. The interview, he added, was published in The News in its issue of September 4, 1995 – five months before the explosion.
He however admitted that no forensic examination or analysis was carried out to ascertain whether or not the body was truly that of Kaltho.

Biu also alleged that the management of the Independent Communications Network Limited (ICNL), publishers of *The News*, may also have been connected with the Durbar Hotel bombing and that the Task Force was continuing its investigation into the company’s possible involvement.

The curiosity is that it took the Task Force well over two and a half years to come up with the explanation when it became pressed, following the death of former Head of State, General Sani Abacha, to account for Kaltho’s disappearance.

Besides media campaigns embarked upon after General Abacha’s death by the ICNL and human rights organizations over the disappearance of Kaltho, his wife wrote to General Abubakar on August 10 – eight days before Biu’s announcement, saying that her husband, who had been hunted by security agents for some time before his disappearance, “felt that the heat was off and he moved to Kaduna, en route Abuja, not knowing that an order had been placed on his head by all the security agencies for him to be brought to Abuja dead or alive.”

According to her, “Information as at that time also had it that if he did not show up, security agents would pick me and my children up I had to leave home and hide somewhere.” Neither Biu’s Task Force, nor any of the other security agencies have offered any explanation as to why they were on the hunt for Kaltho before the Kaduna bomb blast, even if they never subsequently arrested him.

Shortly after the Kaduna bomb blast, the Kaduna State Deputy Commissioner of Police, Alhaji Umaru Suleiman, told reporter’s stomach was ripped open by the explosion, his legs were shattered and his face burnt beyond recognition.

He also claimed that no exhibit was found on the suspected bomber, except a book, which he had obviously just purchased from the Hotel entitled “The Man Died” written by Wole Soyinka.

He added that the name Y.Y. Yusuf, was written on the book and on the receipt found in his leather bag, but that the management of the Durbar Hotel could not identify the person.

Besides, the State Assistant Commissioner of Police, Alhaji Muktar Ibrahim, also promised that the mutilated corpse of the victim would undergo post mortem examination.

Reaching to the recent allegations of the Task Force, the management of ICNL recalled the statements of both Suleiman and Ibrahim on the identify of the alleged dead bomber and noted that it was curious that the police had already recognized the body of a man they said was burnt beyond recognition 32 months ago.

It wondered whether Kaltho’s wife or relations were ever asked to identify the body before the Police came to its conclusion.

The management also found it curious that the recognition coincided with the concerted efforts of its organization to locate Kaltho and called for the intervention of the Head of State, General Abubakar Abdulsalam, on the matter.

The ICNL urged the Head of State to order the immediate production of the body for forensic and DNA tests to enable Nigerians, local and international journalists get to the root of the matter.

All the evidence given by Biu to support his claim that Kaltho was connected with the bomb blast is circumstantial.

The position of the law as it relates to circumstantial evidence is that it must always be narrowly examined because this type of evidence may be more easily fabricated to cast suspicion on an innocent person.

It is in recognition of this that Nigerian courts have held that in drawing an inference of guilt of an accused person from circumstantial evidence, great care must be taken not to fall into serious error based upon the fallibility of the evidence.
The legal authorities, both local and foreign, are clear on the point. Phipson, in his book “Manual of the Law of Evidence”, 11th Edition, says at page 11 that “circumstances of a fact to be proved is the testimony of a witness who perceives not a fact to be proof, but another fact from which the existence or non-existence of the fact can be deduced or the production of evidence or thing from which the fact is to be deduced; it does not on its own prove anything but it is deduced by inference.

Aguda’s “Law and Practice Relating to Evidence in Nigeria” explains circumstantial evidence at page 13 to mean that a number of circumstances which, when accepted, make a complete and unbroken chain of evidence.

In all cases, circumstantial evidence must be cogent, unequivocal and of high probative value.

In Kasa v. State (1994) 2 NWLR (Pt 325) 143, it was held that in relying on circumstantial evidence, it must be clearly shown that there does not co-exist any circumstances which cast doubt on or undermine the inference of guilt, the proved and accepted facts.

Since the police have no direct evidence that Kaltho was the bomber and are only presuming that it was him, the law places a burden on the police, which is making the allegation, to prove beyond reasonable doubt that Kaltho was the bomber and that he died in the process.

Since Kaltho is not around to defend himself and he, live everyone else, is presumed innocent of any crime until the contrary is proved as provided by Section 33(5) of the 1979 Constitution, the police must corroborate the evidence they have offered so far and prove their allegation.

From the facts of the case, it is clear that the police cannot prove that the unidentified body at the scene of the bomb blast was that of Kaltho.

Since no forensic, DNA or post-mortem test was carried out on the body, there is scientific proof of the identify of the corpse.

There is absolutely no evidence that the video tape found at the scene of the bomb blast was in Kaltho’s possession before we disappeared even if the 1994 interview by the Bauchi Television Authority with Major-General Muhammadu Buhari said to be contained in the video tape had been earlier published by The News.

Expressing outrage at the claim of the Task Force, Media Rights Agenda (MRA) said in a statement on August 19 that it failed to understand how it could possibly have taken the Task Force over two and half years to make this revelation if indeed the allegations are true.

According to the organization “We also find it incredible that despite widespread and persistent reports over the last 30 months that Mr. Kaltho had been arrested and detained, the security agency, which now claims that he was dead all the while, did not deny the fact that they had custody of him.”

MRA argued that if the Task Force was claiming that it did not make the information public all these years because it could not identify the body as that of Mr. Kaltho, the pertinent question it must now answer is what additional information it obtained recently with which it has now confirmed that the body is indeed that of Mr. Kaltho.

It described the attempt by the Task Force to implicate the ICNL, publishers of The News, in the bomb blast without proffering a shred of evidence in support of the allegation as “sheer blackmail aimed at providing security agencies an excuse once more to continue their onslaught on the organization.”

MRA stressed that it found both the claim that Mr. Kaltho died from an explosion while planting a bomb at the Durbar Hotel and the allegation that the ICNL was involved in the bomb blast callous and lacking in credibility.

It demanded a full and independent investigation into the circumstances surrounding Mr. Kaltho’s death, failing which, it said, it “would have no alternative but to conclude that Mr. Kaltho died in the custody of the Federal Military Government and its security agencies. And they must answer for his death.”
What is apparent under the present circumstances is that the situation regarding Kaltho’s disappearance and possible death, remains unclarified.

The obligation of the Government under these circumstances is as stated in Article 13(1) and (2) of the UN Declaration on the Protection of All Persons from Enforced Disappearance.

The provisions stipulate that:

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.”

It is apparent from these provisions that the Government has a duty to institute an independent judicial inquiry into the case of Bagauda Kaltho.

The minimum requirements under the Declaration for such an investigation include the protection of all persons involved in the investigation, including the complaint, counsel, witnesses and those conducting the investigation, against all ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging or a complaint or during the investigation procedure.

The Government is also obliged to make the findings of such an investigation available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.

Article 13(6) of the Declaration provides that “An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.”

Acts of enforced disappearances are regarded as serious violation of the rules of international law which “No State shall practice, permit or tolerate.”

In fact, Article 4(1) of the Declaration specifically provides that “All acts of enforced disappearances shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.”

Article 17(1) goes further to stipulate that “Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of person who have disappeared and these facts remain unclarified.

Because no justification for acts of enforced disappearances can be entertained, Article 6(1) of the Declaration states that “No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.”

Besides this, Article 7 also emphasizes that “No circumstance whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.”

However, in the face of the highly defective case presented by the Task Force and the Government’s clear obligations under international law, the Government said on August 25 that it had no reason to doubt the police statement that Kaltho was the suspect killed in the January 18, 1996 bomb blast.

Information Minister Chief John Nwobodo (Jnr), told journalists during his visit to media establishments in Kaduna that “What has happened, has happened, we respect the view given by the police on the matter. We have no cause to doubt the integrity and statement of the police despite conflicting media reports.”
But two weeks later, during a visit to the offices of ICNL in Lagos on September 9, Nwodo recanted his earlier position and promised the publishers of The News that the government would investigate Kaltho’s death.

His promise followed a claim by the ICNL that Kaltho was arrested by security agents before the bomb blast in which he is now alleged to have died.

The Managing Director the publishing company had called on the Government to institute a public inquiry into the allegation that Kaltho was the bomber who died in the blast.

Nwodo said copies of Onanuga’s speech, which contained the company’s claim, would be sent to the Inspector General of Police, Allhaji Ibrahim Commasie, and the National Security Adviser “to find out the veracity of the claims.”

He told the management: “Clearly, you have made the speech based on information that you have been given. The reliability of the information will be subjected to rigorous test and if your lead is anything to go by, the government will re-open that lead and get whatever information required.”

According to Nwodo, “If he (Kaltho) was taken from his house, somebody must have been responsible and we’ll try to find out who it is. So you can rest assured that I will take this up with the various arms of security authority.”

The minister insisted that his earlier statement that the Government had no reason to doubt the story by the Police had “been variously misunderstood.”

He said: “I want to reiterate some of the statement I have made for the avoidance of doubt. I believe that the government of Nigeria owes a duty to all Nigerians to protect them from harm and therefore, if there is any shred of evidence whatsoever that some harm has been brought to bear on this gentleman with the active connivance of any functionary of government this administration will be quite prepared to dig into the matter and unearth whatever is covered in order to ensure that justice is done.”

Justifying his earlier statement, Nwodo gave a rather convoluted explanation thus: “What I have said in the past is that, the fact of two contradictory police statements did not in anyway invalidate the last statement, especially as they were not made by the same person or they were not functioning in similar circumstance. The first statement, by the police commissioner in Kaduna, Umaru Suleiman, described what happened at the time Zakari Biu was the product, I understand, of an investigation on the basis of which he held the views he aired. Those views contradicted the statement of his colleague. But they do not dilute its validity except there is contradictory evidence.”

He stressed that the Abubakar Regime had “nothing to hide”, adding that “We have nothing to cover and we have no responsibility for any act of lawlessness that were perpetrated by agents of government prior to our arrival on the scene except in so far those agents strike for justice.”

The Clear implication of Nwodo’s latest position is that the security agencies, which are being accused of having arrested Kaltho and, perhaps, causing his death in custody, will be responsible for investigating the allegations against them.

Lacking in independence and objectivity, as they are bound to be, their role in such an investigation can only be to perpetuate the culture of impunity which pervaded the Abacha regime.

Nothing short of a judicial investigation will do.

Anxiety Heightens Over Chinedu Offoaro

Anxiety heightened last month over the fate of The Guardian newspaper correspondent, Chinedu Offoaro, was disappeared in May 1996, as family member, friends, and colleague continue the search for him.

The renewed anxiety over the fate of Offoaro was precipitated by the police claim that the former Kaduna correspondent of TheNews magazine, Bagauda Kaltho, who similarly disappeared early in 1996, died at a bomb blast scene while planting an explosive device.
Kaltho was believed to have been arrested and detained by security agents and it is generally feared that he may actually have died in custody.

Journalists and human rights advocates fear that a fate similar to Kaltho’s may have befallen him.

Recent indications are that Offoaro may also have been arrested and detained by security agents, although the Directorate of Military Intelligence (DMI) which is suspected to be holding him, has neither confirmed nor denied having him.

At a conference held in Accra, Ghana, last month, to review the state of the media in West Africa, journalists and representatives of free expression organizations from Nigeria, Ghana, Zambia, Argentina and the United States called on the Nigerian Government to investigate Offoaro’s disappearance and give a public account of his fate.

Offoaro left Lagos on Friday, May 24, 1996 for his home town, Obiohuru in Imo State, on a personal matter, with a promise to be back at work by Sunday, May 26.

Although his family members confirm that he arrived his hometown on schedule, completed his business and departed for Lagos as planned, he has not been seen ever since.

Following his disappearance, his employers reported the matter to the police and placed a series of public announcements in the newspaper seeking information about his whereabouts, apparently without success.

Police investigation of the matter as been no more than perfunctory. But members of Offoaro’s family and his employers have conducted searches at various hospitals, police stations, mortuaries and detention centers with no luck.

But last year, Offoaro’s family members claimed that they had reasons to believe that he was being held by security agents in a case of mistaken identity.

Tell magazine’s senior staff writer, Ibim Semenitari, one of the journalists who have tried over the last two and a half years to unravel the mystery surrounding Offoaro’s disappearance, reported last year that Offoaro’s brother, Godson, a journalist, resident in the United State, claimed that some Nigerians had gone to his office in the US to inform him that his brother may have been held by security agents on mistaken identity.

Godson visited Nigerian in July last year and wrote a letter to Secretary to the Federal Government on the issue in which he stated his reason for believing that his brother was being detained by security agents.

According to him, before Offoaro was declared missing, a Chinedu Offor, another journalist who was also working for The Guardian then, slipped out of the country into exile in Washington D.C. in the US because he was being hunted by security agents for allegedly filing inaccurate reports about Nigeria for the US public broadcasting station, Voice of America (VOA).

Offor himself concedes that people often mistook him for Chinedu Offoaro while they were at The Guardian as Offoaro is sometimes abbreviated to Offor.

The argument of Offoaro’s family members is that the security agents thought Offoaro was using the abbreviated form of Offor in his reports for the VOA.

They believe that this situation, coupled with the fact the Offoaro visited the US Embassy in Lagos for three days the week he disappeared to help his sister with processing an application for an American visa, may have convinced the security agents that he was the Offor they were looking for.

While family members also claimed that at least two anonymous telephone calls have been made to The Guardian by persons claiming to be holding Offoaro, the newspaper’s staffers have denied receiving any such calls.

Although there is as yet no verification of the claim that Offoaro is being detained by security agents, other similar occurrences when journalists and other critics of the government were abducted on the streets and detained with no information to their employers, colleagues or family members, lends credence to the theory that Offoaro might have been secretly taken into custody.
For instance, on October 25, last year, the Editor of the African Concord magazine, Soji Omotunde, was abducted by security agents as he was driving along Adeniyi Jones Avenue in Ikeja, Lagos.

The security agents blocked his car with their, forcibly took him from his car, gagged him as he shouted to attract attention, bundled him into their car and sped off.

For the six months he was detained, none of his colleagues, friends or family members knew where he was.

The magazine’s Abuja Bureau Chief, Mohammed Adamu, was similarly abducted on July 27, last year almost in identical circumstances with Omotunde’s. His whereabouts were also not known until his release in April this year.

Adetokunbo Fakeye, the defence correspondent of TheNews, was arrested on November 4, last year at Defence Headquarters in Lagos, his regular beat, when he reported for duty.

His arrest was not announced and neither were notified by the Defence Headquarters that he had been arrested and detained.

The management of the Independent communications Network Limited (ICNL), publishers of The News, became worried when Fakeye did not return to the office on that day and began investigating the circumstances of his disappearance.

It was after then that it discovered that Fakeye had been detained at the Defence Headquarters.

When Babafemi Ojudu, the managing director of The News was arrested on November 17, last year at the border between Nigeria and Benin Republic by security agents as he returned to Lagos from Nairobi, Kenya, where he attended a seminar organized by the Freedom Forum, it was only by quick thinking and a stroke of luck that he was able to get information of his arrest out of his colleagues.

The same circumstances surrounded the arrest by security agents of the Arts Correspondent of the Post Express newspaper, Akin Adesokan, on November 12, last year at the same border as he returned to the country after nearly a year-long study in the United States and Austria.

The fact of his arrest and detention remained unknown to anyone, including his employers and family members, until about two weeks after he was picked up.

In the case of Onome Osifo-Whiskey, the Managing Editor of Tell, he was arrested by officials of the DMI in Lagos on November 9, last year as he drove his family, comprising his children and house maid, to Church. His whereabouts were similarly unknown until his release in April this year.

These practices, in addition to being in violation of various local and international human rights instruments which Nigeria is obliged to comply with, also contravene the United Nations Declaration on the Protection of All Persons from Enforced Disappearances.

Article 10 of the Declaration provides that:

1. Any person deprived of liberty shall be held in an official recognized place of detention and, in conformity with national promptly after detention.
2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.”

Article 10(3) of the Declaration goes on to stipulate that “An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority…”

The disregard for these provisions have made cases of enforced disappearances difficult to investigate and places Nigeria in a situation of being in grave breach of Article 2(1) of the
Declaration which prohibits all States from practicing, permitting or tolerating enforced disappearances.

Media Rights Monitor is published by the Media Rights Agenda (MRA), a non-governmental organisation established for the purpose of promoting and protecting press freedom and freedom of expression in Nigeria. The MRA has observer status with the African Commission on Human and People’s Rights and is a component of the FEDERC FOUNDATION which is registered under Nigeria law.

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LETTERS

Poor Training Also Threatens Media Freedom

I have been receiving copies of your newsletter for sometime now and I want to thank you for putting my name on your mailing list.

The challenge of defending press freedom is big enough that I consider your work a vital effort in that direction.

However, may I draw your attention to two important areas in which the profession is suffering.
One is local training. I will advise that you use your esteemed NGO to draw support to Nigeria educational institutions that train members of our profession. My reading of the situation is that the threat to media independence stems as much from poor training.

Secondly, (I believe so much in your medium) you should draw attention to the economic imperative that hinders not only the profession, but media establishments.

My best regards.

Paul Odenyi  
The Source  
30, Emina Crescent  
Off Toyin Street  
Ikeja, Lagos.

**Impressed By The Depth Of Your Coverage**

I received a copy of the latest edition of your newsletter yesterday and I am highly delighted at the depth of your coverage, the incisiveness of your analysis and the quality of your interview. I sincerely hope and look forward to receiving on a regular basis a copy of the newsletter and I promise that if there is anything I can do to facilitate its production, I will gladly do so.

While looking forward to receiving other issues, I implore you not to hesitate to ask for any assistance that I can render.

Thank you.

Ben Agande  
*Daily Monitor* Newspaper  
Plot 17, Nouachott Street  
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**Lawyers Committee Seeks Coordinator for WITNESS Programme**

The New York-based organization, Lawyers Committee for Human Rights (LCHR), is seeking a Programme Coordinator for its WITNESS programme, under which it supports local human rights groups worldwide through strategic guidance on use of communication technology in human rights documentation.

The WITNESS programme strengthens human rights advocacy by providing local human rights groups around the world with video equipment and strategic guidance on how to use video and communications technology as part of their work.

The programme is founded on the belief that public awareness of human rights violations is the first step in building a broad constituency to challenge these abuses and that by providing local human rights groups with the tools of mass communication, it dramatically increases their capacity to tell their story and to build this constituency, both locally and globally.

WITNESS is a project of the LCHR, which is an independent non-governmental organization. Since 1978, LCHR has worked to protect and promote fundamental human rights as established in the International Bill of Rights and other relevant international instruments. LCHR devotes particular attention to the administration of justice and to the protection of and support for local human rights defenders.

The Programme Coordinator of WITNESS will be responsible for implementing programme activity towards realizing the mandate of WITNESS, which will include the following:

Primary responsibilities will be:
Non-Governmental Organisation (NGO) Coordinator: Maintain relationships with a core group of WITNESS NGO partners to advance the use of video in protecting human rights. Assist NGOs in identifying opportunities to record and distribute video that can be used.

(i) by national and international media to increase public awareness;
(ii) as evidence in international or national courts;
(iii) to persuade UN agencies or regional bodies; and
(iv) as a tool for public education;

NGO Training: Provide training in video techniques and related international human rights advocacy to NGO partners around the world;

Building Archive Capacity: Supervise maintenance of the video archive by the WITNESS Program Assistant, including overseeing classification, descriptions and cataloguing of all incoming and existing footage to ensure factual accuracy.

Secondary responsibilities will include:

Framework: Work in collaboration with the WITNESS Director to develop and set program priorities which will advance overall quality of program activity and growth of the WITNESS project;

Development: Assisting the Director to identify funding options and draft fundraising proposals and reports; and

Video Production: Assist the Director to oversee the execution of specific video projects including production marketing and distribution.

The qualified candidate is required to have:

1. A strong background in international human rights advocacy, including experience working collaboratively with non-governmental organizations worldwide;
2. Film production experience, and/or knowledge of video and related technologies;
3. Excellent written and oral communication skills;
4. Proficiency in French and/or Spanish. Other languages desirable.

The Lawyers Committee is looking to hire a qualified individual to start as soon as possible. Interested individuals should submit resume, cover letter, one writing sample and three references by October 15, 1998, to: Lawyers Committee for Human Rights, Attn: HR – WITNESS, 333 Seventh Ave., 13th floor, New York, NY 10001-5004, or by facsimile: (212) 845-5299, or E-mail: devriesc@ichr.org

Submissions Open for Index On Corruption

Submissions are being accepted for the first index of under-reported stories on corruption worldwide, according to the Network for the Defence of Independent Media in Africa (NDIMA), which is working with the Institute for Media Policy and Civil Society (IMPACS) of Canada on the project.

Articles must have been published and qualify if they involve bribery or fraud or misuse of power for private or political gain.

“The purpose of the index is to raise awareness about the necessity of independent and accountable media in the expansion and protection of democracy,” NDIMA said, adding, “By highlighting the stories of corruption that have been under-reported, we intend to underline the crucial role of the media as an institution of public scrutiny.”

A story qualifies for consideration if “the degree of publicity is disproportionate to degree of corruption (e.g. huge sums of money and involvement of high profile politicians, bureaucrats or businessmen),” in addition to the following criteria: if the story is published or broadcast only in a local, regional, or small circulation medium; it is given prominent coverage once, but no follow-up; and if it is covered only or mainly in alternative, student or on-line media.

The deadline for submissions is October 16, 1998.
A copy of the nomination form can be obtained from Sam Mbure or Emily Nyanjugu at NDIMA, P.O. Box: 70147, Nairobi, Kenya. Telephone/Facsimile: +254 154 51118 or 254 154 41403, e-mail: ndima@rccc.or.ke, Internet: http://www.oneworld.org/ndima/; or contact Karen Sawatzky at IMPACS, 207 W. Hastings St., Suite 910, Vancouver B.C. V6B 1H6. telephone: +1 604 682 1953, facsimile: +1 604 683 8536, e-mail: media@impacs.bc.ca. (IFEX).

**SSS Releases Odia Ofeimun’s Passport**

The international passport of Odia Ofeimun, Editorial Board Chairman of Tempo magazine, which was seized by State Security Services (SSS) on March 19, 1996, was returned to him on August 25, 1998.

Odia, then President of the Association of Nigerian Authors (ANA) was on his way to London in 1996 on a British Council programme to seek publishing avenues for some unpunished works of Nigerian writers when SSS men stationed at the Murtala Muhammed International Airport, Lagos seized his passport.

After the seizure, he was taken to the SSS headquarters in Lagos where he was questioned about his earlier visit to London.

Reacting to the release, Odia said that by releasing the document to him, “the government has decriminalized the innocent”.

He thanked all individuals and organizations who helped in mounting pressure on the government to effect the release of the document.

**CPJ Calls for Release of Imprisoned Nigerian Journalists, End to Persecution of Press**

*The following statement was prepared after meetings with Nigerian journalists at a conference organized by the Committee to Project Journalists (CPJ) held in Ghana in August 1998.*

A hallmark of the military men who have ruled Nigeria in recent years has been their ferocious repression of the country’s press, long the most vibrant and independent in Africa.

Many of the military’s worst atrocities – torture, beatings, indefinite detention without charge, solitary confinement in filthy, unlit jail cells – have been reserved for journalists who dared expose the regime’s brutality and rampant corruption.

Since the death in June of General Sani Abacha, the repression of journalists has been eased somewhat. But after years of having to resort to underground or “guerrilla” journalism, most journalists consider the current respite nothing more than a temporary breather.

While Nigeria’s new ruler, Gen. Abdulsalam Abubakar, has released a dozen imprisoned journalists, the patterns of persecution persist: One journalist has been arrested and several more were assaulted in three separate incidents since Gen. Abubakar took power. And this month, the regime alleged that a journalist missing since 1996, Bagauda Kaltho of *TheNews* and *Tempo*, was the bomber in a 1996 blast at the Durbar Hotel in Kaduna. Managers of *TheNews* and *Tempo* vehemently deny the charge, as well as an allegation from local police that the managers themselves were connected to the bomb blast.

The Committee to Protect Journalists (CPJ) has been encouraged by the release of many of the imprisoned journalists in Nigeria – a country that has been one of the world’s worst repressors of press freedom.

But for journalists remain imprisoned or unaccounted for by the military authorities, and at least 20 government decrees, used by Gen. Abubakar’s predecessors to harass and imprisoned journalists, remain place.

The existence of these decrees means that Nigeria’s military rulers, many of them served in the Abacha and Babangida regimes, can at any moment resume the confiscation of
publications, the seizure of editorial equipment, and the use of secret military tribunals to prosecute journalists and impose life sentences.

Gen. Abubakar’s military regime also continues to consider a draft constitution that would create a National Mass Media Commission, with broad powers to impose further restrictions on the press. And although it has not yet been used, a press court, set up solely to professionals, remains in place.

For these reasons, CPJ continues to be deeply concerned about the safety of Nigerian journalists. Of greatest urgency is the fate of the following journalists:

Moshood Fayemiwo, publisher of the now-defunct weekly Razor, who was living in exile in Cotonou, Benin, when Nigerian security agents kidnapped him in 1997 in broad daylight and secretly transported him to Logos. Fayemiwo reportedly has been tortured and chained to a pipe in solitary confinement. Colleagues confirm he is in very poor health.

Niran Malaolu, editor of the daily newspaper the Diet, who was arrested by military intelligence officials late last year at the newspaper’s editorial offices. A special military tribunal tried Malaolu on charges that he was connected with an alleged coup plot. His initial life sentence was three years in July.

Okina Deesor, a producer with Radio Rivers, who was detained in July, 1996, after broadcasting the national anthem of the Ogoni people. To date, Deesor’s whereabouts remain unknown.

Chinedu Offoaro, a reporter for The Guardian, who disappeared in May, 1996. State Security Service officials in Nigeria have refused to confirm or deny that they took Offoaro into custody. Colleagues suspect that Offoaro was killed while in detention.

Nigeria’s independent press continues to operate under the threat of decrees that have been used to punish dozens of journalists.

Among these is State Security (Detention of Persons) Decree No. 2 of 1984, which allows indefinite, incommunicado detention of Nigerian citizens, and has been used frequently against journalists. Other decrees that specifically restrict the media are:

Offensive Publications (Proscription) Decree No. 35 of 1993. This decree allows the government to seize any publication that contains an article deemed likely to “disrupt the process of democracy,” or to “prevent the progress toward democracy as established by the transition to civil rule programme; or to “disturb the peace and public order of Nigeria.”

Treason and Treasonable Offences Decree, Decree No. 29 of 1993. Under the provisions of this decree, a special military tribunal in 1995 convicted four journalists and sentenced them to life in prison, later commuted to 15 years imprisonment. (All four were released this summer) the charges stemmed from articles they wrote after an alleged coup plot against General Abacha; by writing about the alleged plot, they were deemed to be “accessories after the fact to treason.”

As a nonpartisan organization dedicated to defending our colleagues around the world, the Committee to Protect Journalists calls on Nigeria’s military rulers to take immediate steps to free all journalists and eliminate the mechanisms used by past regimes to harass, intimidate, and restrict the press.

Specially, CPJ calls upon Nigeria’s military regime to:

• Immediately release Moshood Fayemiwo and Niran Malaolu. Until they are released, their families and colleagues must be permitted to visit them.
• Investigate the disappearance of journalists Okina Deesor and Chinedu Offoaro, with a full public accounting of their fates.
• Repeal restrictive decrees used against the press, in particular Decree No. 35 of 1993, and Decree No. 29 of 1993.
• Abolish the special press court.
• Drop the proposal for a National Mass Media Commission from Nigeria’s draft constitution.
• End registration requirements for all Nigerian media houses.

(Moshood Fayemiwo was released from detention on September 2, 1998, after this statement had been issued).
Media Law Reports

Attacks on Journalists Restricts Public Access to Information

- Arrests without charge or judicial intervention and forced disappearances violate the physical integrity of the person.
- The Government has a duty to bring legal actions to protect the rights of its citizens, including a duty to conduct investigations and prosecute those concerned.
- Attacks on journalists restricts the ability of the public to have access to information
- Harassment of journalists prevents the dissemination of their opinions.

So held the African Commission on Human and Peoples Rights in its decision in communication No. 74/92: commission Nationale des Droits de l Homme et des libertes v Chad taken at the 18th Ordinary Session in Praia, Cape Verde, in October 1995.

Facts:
The commission was brought by La Commission National des Droits de l Homme et des Liberties of the Fideration Nationale des Unions de Jeunes Avocats de France.

The complaint alleged massive and severe violations of human rights in Chad. Specifically, the complaint alleged that journalists are harassed both directly and indirectly.

These attacks are often by unidentified individuals whom the complainants claim to be security service agents of the Government. But the Government denies responsibility.

There were several accounts of killings, disappearances and torture. Fifteen people were reported killed, 200 wounded and several persons tortured as a result of the civil war between the security services and other groups.

Procedure:
The communication dated May 11, 1992 included a report based on an observation mission to Chad made by the association, Agir Ensemble pour les Droits de l Homme, and the Federation Nationale des Unions de Jeunes Avocats.

On June 23, 1992, acknowledgement of receipt was sent by the Secretariat of the Commission to the complainant. The communication was declared admissible at the 17th Session held in Lome, Togo, in March 1995.

At the 18th Session held in October 1995 in Praia, Cape Verde, the commission hear Ms. Fabiene Trusses-Naprous, of the Federation Nationale des Unions de Jeunes Avocats, Commission Nationale des Droits de l Homme rt des Liberts of France.

She reiterated the information in the original communication, both verbally and by way of a brief. The brief, in addition to summarizing the information in the original communication, affirmed that the human rights situation in Chad had not seen improvement until the time of the presentation.

Admissibility:
Ruling on the admissibility of the communication, the Commission said it appeared to it that, as provided for under Article 58 of the African Charter, that the communication reveals the existence of a series of serious or massive violations of human and peoples rights.

It noted that Article 56(5) of the African Charter requires the complainant to exhaust local remedies, if any, before the Commission can consider a communication, observing that One of the reasons for this requirement is that a government should have notice of a human rights violation in order to have the opportunity to remedy such violation, before being called before an international tribunal.

Besides, the Commission said, requiring the exhaustion of Local remedies also ensures that the Commission does not become a tribunal of first instance, a function that is not in its mandate and which it clearly does not have the resources to fulfill.

It held that even in respect of those communications for which no domestic legal action has been the great numbers of individuals allegedly suffering from human rights violations, and
the very fact that the alleged events, if true, would constitute a series of serious or massive violations it is clear that the human rights situation prevailing in its territory.

The Commission said it must read Article 56(5) in the light of its duty to ensure the protection of the human and people’s rights under the conditions laid down by the Charter, adding that the Commission cannot hold the requirement of exhaustion of local remedies to apply literally in cases where it is impractical or undesirable for the complainant to seize the domestic courts in the case of each individual complaint.

It noted that this was a case where there are a large number of individual victims and held that due to the seriousness of the human rights situation as well as the great numbers of people involved, such remedies as might theoretically exist in the domestic courts are as a practical matter unavailable or, in the words of the Charter, “unduly prolonged.”

**Decision:**

Ruling on the merits, the Commission noted that there had been no substantive response from the Government of Chad, adding that a blanket denial of responsibility by a government was not sufficient to abdicate its responsibility as specific details are required.

It recalled that it had in several previous decisions, set out the principle that where allegations of human rights abuse go uncontested by the government concerned, the commission must decide on the facts provided by the complainant and treat those facts as given. It referred to its previous decisions in communications 59/91, 60/91, 87/93 and 101/93.

This principle, the Commission said, conforms with the practice of other international human rights adjudicatory bodies and the Commission’s duty to protect human rights, adding that “The fact that the Government of Chad does not wish to participate in a dialogue means that the Commission must continue consideration of the case, regrettably, on the basis of facts and opinions submitted by only one of the parties.”

It thus held that in the absence of a substantive response by the government and in keeping with its practice, it would take its decisions based on the events alleged by the complainant.

Refereeing to Article 21 of the African Charter, the commission noted the claims of the complainant that not only did government agents commit violations of the African Charter, but that the state failed to protect the rights in the Charter from violation by other parties.

It also noted the government's claims that no violations were committed by its agents and that it had no control over violations committed by other parties, as Chad is in a state of civil war.

But the Commission held that if a state neglects to ensure the rights in the African Charter, this can constitute a violation, even if the state or its agents are not the immediate cause of the violation.

According to the Commission, the African Charter, unlike human rights instruments such as the European Convention on Human rights in Article 15, the Inter-American Convention on Civil and Political Rights, does not allow for states parties to derogate from their treaty obligations during emergency situations.

Thus, it said, even a civil war in Chad cannot be used as an excuse by the state violation or permitting violations of rights in the African Carter.

Remarking that in the present case, Chad has failed to provide security and stability in the country, thereby allowing serious or massive violations of human rights, the Commission noted that the national armed forces are participants in the civil war and that there have been several instances in which the government has failed to intervene to prevent the assassination and killing of specific individuals.

In any case, it ruled, “even where it cannot be proved that violations were committed by government agents, the government had a responsibility to secure the safety and the liberty of its citizens, and to conduct investigations into murders.”

The Commission held that Chad was therefore responsible of the violations of the African Charter.
It ruled that the assassinations described in the communication, of Manadou Bisso and Joseph Betudi, vice-president of Ligue Tchadienne des Droits de l’Homme, are clear violations of Article 4 of the African Charter and that in the case of Mamadou Bisso, the government had a special responsibility since it was warned of a danger to Mr. Bisso but refused to issue protection.

The Commission also held that incidents of torture and mistreatment of individuals, which were described, including evidence that hands were bound behind the back and persons suspended by their feet, as well as other acts, including violent beatings, electricity burns, deprivation of food and water and sexual assaults, constitute, together and separately, violations of Article 5 of the Charter.

It noted that the arrest of four members of the opposition group RDP were without charge or any judicial intervention and thus constituted a violation of Article 6.

Besides, it said, in cases of “forced disappearances, where the government denies knowledge as to the whereabouts of individuals, the commission finds that such acts violate the physical integrity and security of the person under Article 6.”

The Commission chided the Chadian Government for the subsequent lack of investigation of the killings, saying it presented a special question, since Article 7 of the Carter includes the right to have one’s cause heard, specifically to appeal to competent national organs against acts that violate fundamental rights.

According to the Commission, “In the cases alleged here, the two victims of assassination were clearly unable to bring any action to vindicate their own rights. Criminal cases such as these are considered to affect the rights of all in society, an the responsibility falls to the government to vindicate the rights of its citizens.”

It said: “The African Commission considers the spirit of Article 7, which states that all acts violating “fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force”, should be brought before the national mechanisms of justice. In cases in which it is the government’s duty to bring legal actions to protect the rights of citizens, a failure to do so is equivalent to depriving ordinary citizens of their rights to protect themselves. The failure of the government to investigate these assassinations or prosecute those concerned constitutes a violation of Article 7.”

The Commission also held that Government attacks on and oppression of journalists violate the right to express and disseminate information and, as a result, restricts the ability of the public to have access to such information. It ruled that this was a violation of Article 9(1) of the African Charter.

It also stated that the harassment of journalists was intended to prevent journalists from expressing and disseminating their opinions and thus an infringement of the rights of journalists under Article 9(2) of the Charter.

The Commission stressed that the government has a duty to ensure the rights of its citizens, and that even if the harassment of journalists was not carried out by government agents, the government was responsible for failure to protect the journalists in question.

For these reasons, the Commission said it found that there have been serious or massive violations of human rights in Chad.

ATTACKS ON JOURNALISTS IN AUGUST 1998

Police Kill Publisher In Enugu

A journalist and publisher of an Enugu-based quarterly magazine, News Service, Mr. Okezie Amarube, was shot in the head and killed by a policeman in the Enugu State police command on August 28.
The shooting reportedly took place at about 3.00pm, although Amarube died two and half hours later, after he was taken to the University of Nigeria Teaching Hospital (UNTH) in Enugu. Amarube, 34, had to check a job being done for him by a printer on College Road, off Edinburgh Road, in Enugu. The publisher stumbled on an armed policemen who had come to the printer’s workshop to arrest him (the printer).

The police could not find the printer and decided to arrest one of his workers. They forced one of the workers, a young boy, into their station wagon car, which bore the inscription “Operation Vigilance 03” and were about to take him away when Amarube came. Reports said the police immediately accosted Amarube, claiming that he was the printer they came to arrest on the orders of their boss, following a complaint lodged against him by a female customer to the printer who alleged that he did not do the printing job she had given to him.

Without giving Amarube an opportunity to identify himself, the police pounced on him and one of the policemen thrust the muzzle of his gun on Amarube’s forehead and later hit him on the head with the pistol while shouting “move! Move!.”

When they reached the vehicle in which they came, the policeman who had his hand at the butt of the pistol hit Amarube again with the end and it fired. The bullet went through Amarube’s head and he fell down on the street.

A journalist who was present at the scene of the incident immediately contacted the police public relations officer Mr. Ferdinanrd Okafor, (DSP), who then alerted the Ogui Police Division.

One and a half hours after the incident had occurred, a team of police detectives arrived in a station wagon car bearing the registration number NPF 3018 EN.

A catholic priest was already administering the last sacrament to the publisher, who was apparently dying. After the prayers, the police dragged the body of the journalist into their patrol car and sped off.

Amarube spokesman confirmed that the policeman who shot Amarube had been arrested and was being held at Ogui Road police station.

However, Amarube’s father Chief Alexander Amarube, alleged the next day that his son was killed for his forthrightness in pursuing his journalistic career.

Security Agents Assault Journalists

Security men at the Government House in Owerri, Imo State, assaulted two journalists on August 5 for covering a protest march by pensioners over the non-payment of their monthly stipends.

The pensioners, estimated at about 2,000, stormed the state secretariat where members of the Imo State Civil Service Commission were being sworn in early in the morning and vowed to disrupt the proceedings if their demands were not met.

As the state police commission, Mr. Shehu Mohammed, came out a short while later and started addressing the crowd, the leader of the security men at the Government House, Lieutenant Kefas, confronted the Vanguard Correspondent, Sam Onwuemodo, and asked him why he was taking notes.

As the journalist identified himself, Kefas slapped him and ordered him to leave the premises immediately.

Other journalists present, including the pensioners, protested the action of the military officer. Rather than relent, another soldier punched the National Concord newspaper reporter, Chidi Nkwopara.

It was only after the Chief Press Secretary to the State Military Administrator, Mr. Bright Nwelue, and the Commissioner for Information, Mr. Sylvester Alakwe, came and intervened that the soldiers stopped beating the two journalists.

Nwelue later apologized to the journalists, saying “It is a pity I was not present when the ugly incident happened. But I promise to take it up. I’m very, very sorry.”
Reporters Assaulted Over Sports Story

Ganiyu Salman, a reporter with the Sporting Tribune newspaper, was assaulted on August 22 by a staff member of the Shooting Stars Sports Club (3SC) football club during a pro-league match between the club and another club, the Kano Pillars, played at Lekan Salami Stadium in Ibadan.

The journalist was beaten by the staff member over a story titled “Baraje Unviles N4m Juju deal at 3SC”, which was published in the last edition of the “Sporting Tribune”.

The staff member further threatened a total showdown with the reporter if any of the Nigerian Tribune titles should publish any negative story on the club.

Publisher Complains of Fear of Harassment

The publisher and editor-in-chief of the Rising Sun newspaper in Lagos, Mr. Joshua Ogbonna, complained of living in constant fear of intimidation, harassment, and imprisonment for publishing his newspaper.

Ogbonna had been arrested by security agents in Lagos on March 9 for undisclosed reasons but was released after weeks in detention.

Although the policemen who arrested him in March did not give any reason for their action, the arrest was, however, believed to have been over a series of articles and stories published by the newspaper about Chief M.O. Kanu, an Abuja-based hotelier and father of Daniel Kanu who was Chairman of the pro-Abacha organization, Youths Earnestly Ask for Abacha (YEAA), which was campaigning for the late Head of State, General Sani Abacha, to transform into a civilian president.

The article touched on Kanu’s activities and lifestyle.

David Maduako, a journalist with the newspaper who issued a statement after Ogbonna’s arrest then, claimed that the newspaper has been having a running battle with Chief Kanu whom, he alleged, had previously used security agents to harass Ogbonna.

But in a recent statement last month, Ogbonna said he was living in constant fear of intimidation, being detained or even death.

Journalism/Press Freedom Awards

IFJ Calls For Applications For Lorenzo Natali Prize For Journalism

The International Federation of Journalists (IFJ) in Brussels, Belgium, is calling for applications for the 1998 Lorenzo Natali Prize for Journalism, named in memory of the late Vice-President of the Commission of the European Communities.

The prize, offered by the European Commission, is given to “print journalism that address democracy of human rights as vital aspects of development.”

There are two prizes of 10,000 ECU (US$11,660) each to be awarded to the winners, one from the European Union and the other from a region in the process for development.

The deadline for entries is October 15, 1998.

More information on the prize and how to apply may be obtained from the IFJ Secretariat at Rue Royale, 266, B-1210, Brussels, Belgium. Tel: +322 223 2265, Fax: +322 219 2976, E-mail: nata-i-prize@pophost.eunet.be, or visit the IFJ Website: http://www.ifj.org/hrights/natali.html (IFEX)

AMARC Awards Solidarity Prize to Radio B92

The Serbian-based B92 has been awarded this year’s Solidarity Prize by the World Association of Community Radio Broadcasters (AMARC) at its Seventh World Conference of Community Broadcasters, which was held in Milan, Italy on August 25 to 28.
AMARC dedicated this year’s Conference to the celebration of the 50th anniversary of the Universal Declaration of Human Rights and the promotion of human rights via local radio stations worldwide.

Radio B92’s General Manager, Sasa Mirovic, who received the award during the conference was also elected AMARC Europe’s Vice President.

AMARC gave Radio B92 the award to acknowledge the station’s ability to survive so long under “extremely difficult circumstances” in its efforts to promote freedom of expression.

Radio B92 was nominated in part because its pursuit of freedom of speech and information had given strength to other radio and television stations in Yugoslavia “to report professionally and objectively.”

Radio B92 is a founding member of the Association of Independent Electronic Media in Yugoslavia (ANEM).

The station was also commended for using new technologies such as the Internet to overcome censorship.

The Solidarity Prize is awarded to a radio station or organization which has distinguished itself under particularly difficult circumstances in the defence of its community’s right to freedom of expression.

At its sixth world conference held in Dakar, Senegal, in January 1995, AMARC awarded the prize to South Africa’s National Community Radio Forum (NCRF) in recognition of its struggle for and contribution towards the emergence of a free and democratic society in South Africa. (IFEX)

African Eye News Service Wins MISA Press Freedom Award

The Media Institute of Southern Africa (MISA) has given its 1998 Press Freedom Award to the African Eye News Service (AENS) of South Africa to honour “the agency’s courage, professionalism, consistency and defence of media freedoms against all odds.”

The award, which includes US$1,000, is presented annually “to honour excellence in journalism and work which has made a significant contribution to media freedom in the region.”

MISA noted that “It is the first Freedom Award that the award has been given to a courageous and outstanding media institution rather than an individual.”

MISA and AENS, based in the province of Mpumalanga, “has established itself as one of the sub-region’s three years of existence.

AENS, whose editor is Justin Arenstein, “has either halted or uncovered a series of corrupt practices in the public sector – some of which have led to public commissions of inquiry, or resignations of the affected officials.”

MISA also noted that “its bold and extremely courageous reporting has earned it several enemies in both the public and private sectors of the South African community,” adding that it has been the target of a number of multimillion rand defamation suits, all of which AENS has won.

Although Arenstein and the other AENS journalists have been physically and verbally harassed, MISA said, “Despite this harassment and hospitality, the AENS team has carried on its mission with excellence, exhibiting mature and professional journalism with depth and carefully verified detail.”

It added that the journalists at AENS have also fought for access to information, successfully lobbying “for public access to all committee sessions of provincial legislatures, as well as for access to the budgetary formulation process in the Mpumalanga legislature.” (IFEX)

Punch Reporter Wins UCIP Media Award

A senior correspondent with The Punch newspaper, Chinwe Ogbuka, is one of the 24 winners from 18 countries worldwide of this year’s International Catholic Union of the Press (UCIP) media awards.
Ogbuka will formally receive the award, along with other winners, on September 16 at the 1998 World Congress of the UCIP scheduled to take place from September 11 to 20, 1998 at the headquarters of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Paris, France.

UCIP Secretary-General, Mr. Joseph Chittilappilly, and Network Coordinator, Mr. Marcus Geisser, said the international jury decided to honour Ogbuka because “The Jury appreciated your topic, as it explained profoundly, the difficulties and challenges of women working as media professionals.

Media professional from across the globe are expected at the world congress whose theme is “From Printed Word to Internet.”

The event will be devoted to modern day learning and evaluating achievements in value-oriented journalism aimed at promoting the culture of the written word for integral development.

BESIDES Nigeria, winners of this year’s award have also come from the United States, Germany, Italy, Cuba, India, Kenya, Brazil, Lesotho, and Cameroun.

Others are from Mexico, Niger Republic, Pakistan, Peru, Senegal and Ghana.

Declaration on the Protection of All Persons from Enforced Disappearances

Adopted by the United Nations General Assembly resolution 47/133 of 18 December 1992

Article 1
1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.
2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and the security of the personal torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

Article 2
1. No State shall practice, permit or tolerate enforced disappearances.
2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.

Article 3
Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Article 4
1. All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.
2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases of enforced disappearance.

Article 5
In addition to such criminal penalties as are applicable, enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such
disappearances liable under civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law.

**Article 6**

1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.

2. Each State shall ensure that orders of instructions directing, authorizing or encouraging any enforced disappearance are prohibited.

3. Training of law enforcement officials shall emphasize the provisions in Paragraphs 1 and 2 of the present article.

**Article 7**

No circumstance whatsoever, whether a threat or war, a state of war, internal political instability or any other public emergency, any be invoked to justify enforced disappearances.

**Article 8**

1. No State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger or enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

**Article 9**

1. The right to prompt and effective judicial remedy as a mean of determining the whereabouts or State of health of persons deprived of their liberty or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7 above.

2. In such proceedings, competent national authorities shall have access to all places where persons deprived of their liberty are being held and to each part of those places, as well as to believe that such persons may be found.

3. Any other competent authority entitled under the law of the State or by any international legal instrument to which the State is a party may also have access to such places.

**Article 10**

1. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.

2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

3. An official up-to-date register of all person deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any other competent authority entitled under the law of the state concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.

**Article 11**

All person deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.
Article 12
1. Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.
2. Each State shall likewise ensure strict supervision, including a clear chain of command, of law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.

Article 13
1. Each state shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent state authority and to have that complaint promptly, thoroughly and impartially investigated by the authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the state shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.
2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents to make immediate on-site visits.
3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.
4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an on-going criminal investigation.
5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other from or interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.
6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

Article 14
Any person alleged to have perpetrated an act of enforced disappearance in a particular State shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that State for the purpose of prosecution and trial unless he has been extradited to another State wishing to exercise jurisdiction in accordance with the relevant international agreements in force. All States should take any lawful and appropriate action available to them to bring to justice all persons presumed responsible for an act of enforced disappearance, who are found to be within their jurisdiction or under their control.

Article 15
The fact that there are grounds to believe that a person has participated in acts of an extremely serious nature such as those referred to in article 4, paragraph 1, above, regardless of the motives, shall be taken into account when the competent authorities of the State decide whether or not to grant asylum.

Article 16
1. Persons alleged to have committed any of the acts referred to in article 4, paragraph 1, above, shall be suspended from any official duties during the investigation referred to in article 13 above.
2. They shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts.
3. No privileges, immunities or special exemptions shall be admitted in such trials, without prejudice to the provisions contained in the Vienna Convention on Diplomatic Relations.
4. The person presumed responsible for such acts shall be guaranteed fair treatment in accordance with the relevant provisions of the Universal Declaration of Human Rights and other relevant international agreements in force at all stages of the investigation and eventual prosecution and trial.

Article 17
1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.
2. When the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitation relating to acts of enforced disappearance shall be suspended until these remedies are re-established.
3. Statutes of limitation, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence.

Article 18
1. Persons who have or are alleged to have committed offences referred to in article 4, paragraph 1, above shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings of sanction.
2. In the exercise of the right of pardon, the extreme seriousness of acts of enforced disappearance shall be taken into account.

Article 19
The victims of acts of enforced disappearances and their families shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation.

Article 20
1. States shall prevent and suppress the abduction of children of parents subjected to enforced disappearance and of children born during their mother’s enforced disappearance, and shall devote their efforts to the search for and identification of such children and to the restitution of the children to their families of origin.
2. Considering the need to protect the best interests of children referred to in the proceeding paragraph, there shall be an opportunity, in States which recognize a system of adoption, for a review of the adoption of such children and, in particular, for annulment of any adoption which originated in enforced disappearance. Such adoption should, however, continue to be in force if consent is given, at the time of the review, by the child’s closest relatives.
3. The abduction of children of parents subjected to enforced disappearance or of children born during their mother’s enforced disappearance, and the act altering or suppressing documents attesting to their true identity, shall constitute an extremely serious offence, which shall be punished as such.
4. For these purposes, States shall, where appropriate, conclude bilateral and multilateral agreements.

Article 21
The provisions of the present Declaration are without prejudice to the provisions enunciated in the Universal Declaration of Human Rights or in any other international instrument, and shall not be construed as restricting or derogating from any of those provisions.
Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers

...Article 19 of the Universal Declaration of Human Rights