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Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its ninety-ninth session, 18–27 March 2024****Opinion No. 9/2024 concerning Mubarak Bala (Nigeria)***

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.

2. In accordance with its methods of work,¹ on 13 July 2023 the Working Group transmitted to the Government of Nigeria a communication concerning Mubarak Bala. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination, based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

* Miriam Estrada Castillo did not participate in the discussion of the case.

¹ [A/HRC/36/38](#).

1. Submissions

(a) Communication from the source

4. Mubarak Bala is a Nigerian citizen, born on 11 July 1984. He is a chemical engineer and a human rights educator who raises awareness about extremism. He is also the President of the Humanist Association of Nigeria and is related to a prominent Islamic scholar in Nigeria.

(i) Arrest and detention

5. The source explains that, in 2014, after Mr. Bala disclosed to his family that he was an atheist, he was forcibly drugged and detained in a psychiatrist facility for 18 days. In the following years, Mr. Bala was reportedly harassed by various groups and threatened by the leader of Boko Haram because of his professed beliefs. The source notes that, prior to being arrested, Mr. Bala was an active and vocal humanist.

6. In April 2020, Mr. Bala reportedly made nine statements on social media, which have been communicated to the Working Group, after which he received numerous death threats, including from a police officer.² According to the source, the statements made by Mr. Bala did not target individuals, advocate violence or encourage any person to criticize, persecute or otherwise discriminate against anyone, on religious or any other grounds.

7. It is reported that, on 27 April 2020, a local lawyer filed a petition to the police commissioner of Kano State Police Command calling for Mr. Bala's arrest, alleging that the statements "definitely incite Muslims and provoke them to take the law into their own hands, which may ultimately result into public disturbance and breach of the peace".

8. According to the source, Mr. Bala was arrested on 28 April 2020 at his home by plain-clothed detectives from the Kano State Police Command. The source notes that the arresting officers showed their identification cards but did not present Mr. Bala with an arrest warrant and there is no evidence that any warrant was ever issued by a public authority. Allegedly, the officers relied on the petition filed by the lawyer the day before as authority for making the arrest. Mr. Bala was reportedly arrested on suspicion of having violated section 26 (1) (c) of the Cybercrimes Act of 2015, which criminalizes insulting anyone online on the basis of their status as part of a religious group, and section 210 of the Penal Code of Kano State, which criminalizes public religious insult and incitement to religious contempt.

9. Reportedly, following his arrest, Mr. Bala was detained at a police station in Kaduna. On 29 April 2020, he reportedly signed a statement confirming that he had made the statements on social media but making it clear that his intention was to encourage intellectual debate and promote religious tolerance. According to the source, Mr. Bala did not confess to the charges, contrary to what was reported by the prosecutor.

10. The source reports that, for over five months after his arrest, Mr. Bala was not given access to his family or to a lawyer. Reportedly, he was only allowed access to legal counsel after rumours began that he had died. On 24 June 2020, the Kano Magistrates' Court granted the request of Mr. Bala's lawyers to meet with him. Although the court order was issued on 15 July 2020 and served on the police the next day, the latter reportedly ignored it, claiming that the wording was too vague. Subsequently, the police claimed that Mr. Bala was being kept in isolation for his own protection. He was only able to meet with his lawyers for the first time on 2 October 2020.

11. According to the source, formal charges were not signed until 23 June 2021 and were only communicated to Mr. Bala on 3 August 2021. Mr. Bala was reportedly brought for the first time before a judge on 1 February 2022, nearly two years after he was arrested, and his detention was not formally authorized by a court until 6 May 2020, during a hearing at which Mr. Bala was not present.

² The content of the threat made by the police officer is reported as follows: "if [Mubarak Bala] ever set foot in Kano, he is dead already. And if he spend [sic] more than 2 days in Kaduna, even the building that shield [sic] him will turn to ashes. Just wait and see."

12. The source explains that the initial charge sheet listed 10 counts relating to Mr. Bala's first five statements on social media, five pursuant to section 114 of the Penal Code of Kano State, which punishes doing anything with intent to, or which is likely to, cause a breach of the peace with up to three years in prison and/or a fine, and five pursuant to section 210 of that Penal Code, which states that "whoever by any means publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to breach of the peace, shall be punished with imprisonment for a term which may extend to two years or a fine or with both". He was therefore charged with two offences in relation to each of the five statements. The source notes that the offences do not require the prosecution to prove that the conduct amounts to incitement to discrimination, hostility or violence.

13. An initial hearing was reportedly scheduled for 3 August 2021, before the High Court of Kano. As Mr. Bala was not produced before the court, the case was adjourned to 13 October 2021. Allegedly, the case was further adjourned twice, once because the judge was ill and another because the judge was scheduled to have surgery.

14. On 1 February 2022, 644 days after his arrest, Mr. Bala was brought before a judge for the first time and formally arraigned. He reportedly pleaded not guilty to the charges listed on the initial charge sheet. On 4 April 2022, the prosecution filed an updated final charge sheet, adding eight counts, pursuant to sections 114 and 210 of the Penal Code of Kano State, in relation to Mr. Bala's four other statements on social media. Mr. Bala was charged with a total of 18 counts, two for each statement. Reportedly, throughout the proceedings and up until his final appearance in court on 5 April 2022, Mr. Bala's legal team made numerous applications for bail, all of which were denied with no clear or reasonable basis.

15. The source explains that Nigeria is a secular State and a State party to the Covenant; its Constitution protects freedom of religion, prohibits State-established religion and bans discrimination based on religion. However, it notes that the Criminal Code Act of Nigeria and the criminal codes of some individual states include vaguely worded offences that criminalize blasphemy and impose custodial penalties for insulting a person's religion. According to the source, Kano State has used criminal laws to interfere with religious freedoms and to promote and protect Islam over other religions. The source notes that, during a visit to Nigeria in 2005, the Special Rapporteur on freedom of religion or belief considered that the wording of section 204 of the Criminal Code Act of Nigeria, which criminalizes any act intended to be perceived as a public insult to another person's religion, gave it a potentially large scope of application that, if interpreted broadly, could lead to certain abuses, including in terms of freedom of religion.³ The source notes that the wording and scope of section 210 of the Penal Code of Kano State is similar to that of section 204 of the Criminal Code Act of Nigeria.

16. On 8 May 2020, Mr. Bala's lawyers reportedly filed a petition with the High Court of Abuja, seeking his release on the basis that his detention violated his fundamental rights to liberty, freedom of movement, a fair trial and freedom of thought and expression under the Constitution of Nigeria and international human rights law. The Kano State authorities reportedly did not file a defence and, on 19 October 2020, the High Court of Abuja heard the petition. On 21 December 2020, the court ruled that the arrest and continued detention of Mr. Bala, as well as the continued refusal to grant him access to legal representation, constituted unlawful infringements of his rights under the Constitution of Nigeria and the African Charter on Human and Peoples' Rights. The court ordered his immediate release on bail and awarded him damages in the amount of 250,000 naira (about \$500). According to the source, neither the Kano State Police Command nor the prosecutor nor the Kano Magistrates' Court complied with the order and the Kano State Police Command subsequently denied that Mr. Bala was in their custody. Reportedly, no steps have been taken to date to comply with the order of the High Court of Abuja.

17. The source notes that, on 8 January 2021, while being detained, Mr. Bala was awarded the Gordon Ross Humanist of the Year Award by the Humanist Society Scotland.

³ E/CN.4/2006/5/Add.2, para. 32.

18. On 27 January 2021, Mr. Bala's lawyers reportedly filed a second petition seeking to transfer his trial to Abuja, on the basis that he would not receive a fair trial in Kano State and in order to ensure his personal safety. According to the source, the High Court of Abuja did not hear the second petition before Mr. Bala pleaded guilty to the updated charges in April 2022.

19. On 5 April 2022, Mr. Bala was arraigned and pleaded guilty to all 18 counts, contrary to legal advice and his previous instructions. According to the source, Mr. Bala changed his plea after the prosecution added the eight additional charges, on the basis of information that he had been given in custody that, if he did not do so, his trial would be delayed and he would be denied bail. On the same day, he was sentenced to two years in custody concurrently for each count under section 210, to run consecutively, and three years for each count under section 114, to run consecutively. The source notes that the judge sentenced Mr. Bala to an arbitrary total of 24 years in prison and did not give him any credit for having pleaded guilty, imposing instead the maximum sentence prescribed by law. It adds that, having considered Mr. Bala's time spent in custody, the judge did not impose a separate fine.

20. On 30 May 2022, a notice and grounds of appeal was filed with the Court of Appeal of Kano State on behalf of Mr. Bala to contest his conviction and sentence. The appeal reportedly challenges the jurisdiction of the Kano State authorities and the sentence imposed. Because of issues in transferring the court file from the High Court of Kano to the Court of Appeal, the appeal has allegedly been delayed.

(ii) *Legal analysis*

21. The source submits that the arrest and detention of Mr. Bala are arbitrary under categories I, II, III and V.

a. Category I

22. The source submits that the detention of Mr. Bala is arbitrary under category I insofar as he was detained contrary to Nigerian law, he was detained incommunicado, sections 114 and 210 of the Penal Code of Kano State are too broadly and vaguely worded to constitute an adequate legal basis for his detention and the court should not have accepted his guilty plea.

23. Allegedly, the Government failed to articulate the legal basis for Mr. Bala's arrest through an arrest warrant and refused to comply with the 1 December 2020 decision of the High Court of Abuja ordering Mr. Bala's release on bail, contrary to article 9 of the Covenant.

24. The source submits that the Government violated Mr. Bala's right to be informed of the grounds for his detention in writing within 24 hours of his arrest, which is enshrined in article 35 (3) of the Constitution of Nigeria. It recalls that, at the time of his arrest on 28 April 2020, Mr. Bala was not shown an arrest warrant and formal charges were not filed until 23 June 2021 and not formally notified to Mr. Bala until 3 August 2021. The source adds that Mr. Bala was not arrested in flagrante delicto and, as such, the Government lacks any justification for the failure to obtain a warrant.

25. The source argues that Mr. Bala was detained in violation of article 35 (4) and (5) of the Constitution of Nigeria, which requires that a person arrested in a place where there is a competent court with jurisdiction to hear the case within 40 kilometres be brought before the court within one day and, in other cases, within two days or such time as the court deems reasonable. Reportedly, Mr. Bala was not brought before a court until 1 February 2022, nearly two years after his arrest. The source contends that no court would deem it reasonable to delay the first appearance of someone detained on suspicion of a criminal offence by almost two years. It adds that Mr. Bala's detention was not formally sanctioned by a court until 6 May 2020, during a hearing at which he was not present.

26. Further, the source notes that article 35 (4) of the Constitution of Nigeria requires the release on bail of any individual arrested and detained not tried within a period of two months from the date of arrest. Accordingly, Mr. Bala should have been released on 28 June 2020 at the latest, two months after his arrest on 28 April 2020. Instead, he was reportedly detained incommunicado until October 2020. The court reportedly refused multiple applications for

bail, keeping Mr. Bala in pretrial detention for almost two years. The source argues that there was no legal basis under domestic or international law for detaining Mr. Bala from 28 April 2020 to 5 April 2022. It adds that, on 21 December 2020, the High Court of Abuja determined that Mr. Bala's arrest, continued detention and continued denial of access to legal counsel were unlawful infringements of his rights under the Constitution and the African Charter on Human and Peoples' Rights. Consequently, the source argues that the continued detention of Mr. Bala from 28 June 2020 to 5 April 2022 lacked legal basis and violated article 35 (4) of the Constitution, the order of the High Court of Abuja and article 9 of the Covenant.

27. Moreover, the source submits that Mr. Bala was detained incommunicado for at least three months, from the day of his arrest until 2 October 2020, during which time his family and lawyers did not know of his whereabouts and believed he may have died in custody. The source argues that Mr. Bala was not brought before a judge or other judicial officer until 1 February 2022, in violation of articles 35 (4) and (5) of the Constitution of Nigeria and article 9 (3) and (4) of the Covenant.

28. Further, the source contends that the wording of sections 114 and 210 of the Penal Code of Kano State is overly broad and too vague to constitute an adequate legal basis for Mr. Bala's detention. It recalls that, in accordance with paragraph 22 of Human Rights Committee general comment No. 35 (2014), arrest and detention must be based on substantive grounds prescribed by law and defined with sufficient precision to avoid overly broad or arbitrary interpretation or application. The source notes that the principle of legality requires that laws be formulated with sufficient precision so that individuals may have access to and understand the law and regulate their conduct accordingly. It adds that laws that are vague and broadly worded may have a deterrent effect on the exercise of the rights to freedom of thought, conscience and religion, freedom of opinion and expression, freedom of peaceful assembly and association, participation in political and public affairs, equality and non-discrimination and protection of persons belonging to ethnic, religious or linguistic minorities, as they have the potential for abuse, including the arbitrary deprivation of liberty.⁴ The source stresses that article 15 (1) of the Covenant guarantees every individual's right to know what the law is and what conduct violates the law.

29. According to the source, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression has stated that terms such as "insult" and "ridicule" are extremely broad and are generally precluded from restriction under international human rights law.⁵ The source argues that, when considering similar provisions in domestic legislation, the Special Rapporteur determined that undefined terms such as "insult to national honour and dignity of religious feelings" were not consistent with the international freedom of expression standards required by the Covenant.⁶

30. The source alleges that sections 114 and 210 of the Penal Code of Kano State are inconsistently applied. Reportedly, there is a pattern by the Government of relying on an arbitrary interpretation of blasphemy laws to enforce Islamic law and doctrine while interfering with the rights and freedoms of religious minorities. The source argues that Mr. Bala was prosecuted under these sections for having lawfully exercised his right to express his religious views on social media. It submits that Mr. Bala should not have been prosecuted under these provisions, which run contrary to the principle of legality, and the court should not have accepted Mr. Bala's guilty plea to the charges. It adds that Mr. Bala was sentenced to the maximum sentence authorized by law in order to deter him and others from repeating conduct that falls within the rights to freedom of religion and freedom of expression.

b. Category II

31. The source argues that the detention of Mr. Bala is arbitrary under category II as it results from the exercise of fundamental rights protected under international law, including the right to freedom of thought, conscience and religion, protected by article 18 of the

⁴ Opinion No. 15/2021, para. 65.

⁵ A/74/486, para. 17.

⁶ A/HRC/43/46/Add.1, para. 15.

Covenant, article 18 of the Universal Declaration of Human Rights and article 38 of the Constitution of Nigeria.

32. In this regard, the source recalls that freedom of thought, conscience and religion encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, and protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The source adds that the terms “belief” and “religion” must be broadly construed.⁷

33. According to the source, Mr. Bala’s statements on social media constitute a public manifestation of his atheist views and fall entirely within his rights enshrined in article 18 of the Covenant. It contends that Mr. Bala was prosecuted and sentenced to 24 years in prison in order to deter him and others from exercising such rights.

34. The source notes that permitted restrictions under article 18 (3) of the Covenant must be prescribed by law and should not be imposed for discriminatory purposes or applied in a discriminatory manner.⁸ It argues that the restrictions provided under article 18 (3) of the Covenant cannot justify Mr. Bala’s detention insofar as sections 114 and 210 of the Penal Code of Kano State are too broadly and vaguely worded to fulfil the requirement that the limitations be prescribed by law. Moreover, the source contends that those provisions are disproportionately applied to advance and protect the Muslim faith over other beliefs and religions, which is inconsistent with article 18. In this regard, it stresses that others who replied to Mr Bala’s posts by insulting and threatening Mr. Bala for expressing his views were not prosecuted. The source thus concludes that, because of the vagueness and overbreadth of sections 114 and 210 and their discriminatory application, the detention of Mr. Bala does not fall within the permissible restrictions enumerated in article 18 (3) of the Covenant.

35. Further, the source submits that Mr. Bala’s detention constitutes an unlawful interference with his right to freedom of expression, in violation of article 19 of the Covenant, article 19 of the Universal Declaration of Human Rights, article 9 of the African Charter on Human and Peoples’ Rights and article 39 of the Constitution of Nigeria. The source recalls that article 19 of the Covenant protects all forms of audiovisual, electronic and Internet-based modes of expression.⁹ It adds that prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20 (2) of the Covenant, which prohibits advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence.

36. According to the source, Mr. Bala’s statements on social media did not advocate any violence, hatred or intolerance and did not target specific individuals or groups of people. Rather, the source contends that they constituted expressions of his personal opinions, are protected by article 19 of the Covenant and do not fall within the scope of article 20 (2). The source argues that, even if it could be said that Mr. Bala’s statements do fall within the scope of article 20 (2), it is for the Government to demonstrate that the restrictions on Mr. Bala’s rights are prescribed by law, serve a legitimate purpose and are necessary to achieve and proportionate to a legitimate purpose.¹⁰

37. The source adds that article 45 (1) of the Constitution of Nigeria permits laws that restrict fundamental rights if those laws are “reasonably justifiable in a democratic society” and further the interests of public order. The source notes that restrictions must not put in jeopardy the right itself and that it is not sufficient for a Government to invoke one of the enumerated exceptions, rather, it must specify the precise nature of the threat posed by the

⁷ Human Rights Committee, general comment No. 22 (1993), paras. 1 and 2.

⁸ *Ibid.*, para. 8.

⁹ Human Rights Committee, general comment No. 34 (2011), para. 12.

¹⁰ Human Rights Committee, *Kim v. Republic of Korea* (CCPR/C/64/D/574/1994), para. 12.2. See also African Commission on Human and Peoples’ Rights, Declaration of Principles on Freedom of Expression and Access to Information in Africa, principle 9; and African Commission on Human and Peoples’ Rights, *Monim Elgak, Osman Hummeida and Amir Suliman v. Sudan*, Communication No. 379/09, Decision, March 2014, paras. 114, 115 and 118.

protected activity, establish a direct and immediate connection between the expression and the threat and demonstrate why the limitation was necessary.¹¹

38. Further, the source argues that the limitations on Mr. Bala's freedom of speech do not fall within the permissible restrictions outlined in article 19 (3) of the Covenant. It submits that, while sections 114 and 210 of the Penal Code of Kano State purport to protect public order, the wording of such provisions is too vague and broad to satisfy the requirements of article 19 (3). The source challenges the necessity and proportionality of imposing a criminal sentence in excess of 20 years' imprisonment in response to Mr. Bala's statements. It recalls that such statements expressed abstract views and ideas critical of the Muslim faith but did not interfere with individuals' right to respect and follow Islam. It notes that, by imprisoning Mr. Bala, who was allegedly a victim of threats of violence himself, the Government subverted the intention of articles 19 (3) and 20 (2) of the Covenant.

39. In addition, the source argues that Mr. Bala was detained on discriminatory grounds on the basis of his atheistic beliefs, in violation of article 26 of the Covenant. It contends that Nigeria, and Kano State in particular, has demonstrated a pattern of discriminating against individuals and organizations who express or pursue religious views and practices not consistent with Islam. The source points to a previous instance in which the Working Group found the detention of an individual in Kano State to be contrary to the individual's right under article 26.¹² Allegedly, Nigeria has a record of using blasphemy laws to disproportionately target individuals from Christian, humanist and minority religious backgrounds. Reportedly, as of October 2022, there was no record of charges being brought against individuals who had insulted humanism or religions other than Islam.

40. The source contends that, in the northern states, comments criticizing Islam are more likely to lead to public disorder than comments insulting religious or belief minorities, such as atheism, and therefore provisions such as sections 114 and 210 of the Penal Code of Kano State are more likely to be used against religious and belief minorities than against Muslims. The source notes that there is little evidence that individuals inciting or committing violence against those who criticize Islam are prosecuted.

41. In the case at hand, the source underlines that, although the responses to Mr. Bala's statements on social media included direct threats of violence and of death, he was the only one to be arrested or prosecuted in connection with the statements. It adds that, during the sentencing, the judge stated that "there are a lot of people that may have the same ideology but not expose themselves like that", demonstrating that Mr. Bala was in fact prosecuted for expressing atheistic views, not for threatening public order. According to the source, such comments, in addition to the harsh sentence imposed, suggest that the judge harboured a personal bias, which led him to accept Mr. Bala's guilty plea to inappropriate charges and to impose the maximum sentence allowed.

c. Category III

42. The source submits that, given that Mr. Bala's detention is arbitrary under categories I and II, he should not have been prosecuted at all. It alleges that the Government committed multiple, egregious violations of his due process rights and that Mr. Bala was effectively coerced into pleading guilty to the updated charges, against legal advice, for fear that he would not receive a fair trial. It contends that the court should not have accepted Mr. Bala's guilty plea and should not have convicted him.

43. The source recalls that article 9 (3) and (4) of the Covenant protects the right of anyone arrested to be brought promptly before a judge, to be tried within a reasonable time and to challenge the legality of the detention. It adds that incommunicado detention inherently violates article 9 (3) and the right to challenge the lawfulness of detention, which is non-derogable under international law.¹³ The source notes that rules 58 and 61 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson

¹¹ General comment No. 34, (2011) paras. 21 and 35; and Human Rights Committee, *Sohn v. Republic of Korea* (CCPR/C/54/518/1992), para. 10.4.

¹² See Opinion No. 16/2021.

¹³ Human Rights Committee, general comment No. 35 (2014), para. 35.

Mandela Rules) require a State to allow prisoners to have contact with family members and legal counsel.

44. Allegedly, Mr. Bala was detained incommunicado, without access to his family or to legal counsel, from 28 April to 2 October 2020, and was first brought before a court on 1 February 2022. While Mr. Bala's lawyer's application to the Kano Magistrates' Court to meet with Mr. Bala was granted on 24 June 2020, Mr. Bala was reportedly not produced at that hearing and his lawyers were unable to gain access to him until October 2020 because the police ignored the court order.

45. The source contends that Mr. Bala was not formally charged until June 2021, over a year after his arrest. Reportedly, his arraignment was subsequently adjourned on multiple occasions for reasons unrelated to his case. The source recalls that, despite the High Court of Abuja determining that his arrest and continued detention were unlawful and ordering his release in December 2020, Mr. Bala remained in detention until 5 April 2022, when he pleaded guilty. Allegedly, having waited nearly two years in custody to be formally arraigned, Mr. Bala lost faith in the legal process and pleaded guilty out of desperation and contrary to legal advice. The source submits that the court should not have accepted the guilty plea under such circumstances.

46. Further, it is recalled that article 14 (1) of the Covenant protects the rights to be equal before the courts and to a fair and public hearing by a competent, independent and impartial tribunal and article 14 (2) protects the right to be presumed innocent. The source notes that judges must not allow their judgment to be influenced by personal bias or prejudice, to harbour preconceptions about a particular case before them or to act in ways that improperly promote the interests of one of the parties to the detriment of the other.¹⁴

47. Allegedly, when sentencing Mr. Bala to the maximum sentence prescribed by law, the judge commented that "the intent that he is thinking that he has to say whatever he wants to say or put anything is not absolute ... there are a lot of people that may have the same ideology but not expose themselves like that". According to the source, such comments, combined with the harsh sentence imposed, suggest that the judge harboured a personal prejudice against atheism that influenced his decision to continue detaining Mr. Bala, to accept his guilty plea when he should not have and to hand down an unduly harsh sentence. The source adds that such comments are contrary to Mr. Bala's rights under articles 18 and 19 of the Covenant and suggest that the tribunal was neither independent nor impartial and that the judge had predetermined Mr. Bala's guilt, in violation of his right to be presumed innocent.

48. Moreover, the source argues that Mr. Bala was denied access to legal counsel for over five months following his arrest, in violation of article 14 (3) (b) and (d) of the Covenant, principle 18 (1) and (3) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 119 of the Nelson Mandela Rules. The source recalls that anyone arrested should be granted prompt access to counsel from the outset of the detention.¹⁵ It contends that Mr. Bala was held incommunicado, without access to a lawyer or his family, from April 2020 until at least October 2020, in contravention of an order of the Kano Magistrates' Court granting his lawyer permission to meet with him. The Kano State Police Command allegedly disregarded the court order, merely stating that its wording was too vague.

49. The source also argues that the Government violated Mr. Bala's right to be released pending trial under article 9 (3) of the Covenant, principles 38 and 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 35 (4) of the Constitution of Nigeria, which requires that a person held in pretrial detention for a period of two months be released on bail, either with or without conditions. The source adds that any detention lasting longer than 48 hours must remain absolutely exceptional and be justified under the circumstances, and that detention pending trial must be based on an individualized determination that the detention is reasonable and necessary

¹⁴ Human Rights Committee, general comment No. 32 (2007), para. 21.

¹⁵ *Ibid.*, para. 34.

taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.¹⁶

50. The source contends that Mr. Bala was detained for a period of nearly two years before he finally pleaded guilty to the updated charges in 2022 and that his multiple applications for bail were all rejected. The source argues that, in the circumstances, Mr. Bala's detention was neither reasonable nor necessary and thus violated article 9 (3) of the Covenant, principles 38 and 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 35 (4) of the Constitution of Nigeria.

51. Finally, the source submits that the Government violated Mr. Bala's right to be tried without undue delay, as enshrined in article 14 (3) (c) of the Covenant and principle 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. It notes that the expeditiousness of the trial is an important aspect of its fairness, and in cases where accused persons are denied bail by the court, they must be tried as expeditiously as possible.¹⁷ The source reiterates that Mr. Bala was not brought before a judge until nearly two years after his arrest, charges were not brought against him until June 2021 and final charges were not signed until April 2022, approximately 10 months later. Allegedly, by the time Mr. Bala pleaded guilty in April 2022, he had been held in pretrial detention for nearly two years, in violation of his rights under articles 9 (3) and 14 (3) (b) and (d) of the Covenant, principles 38 and 39 of the Body of Principles and rule 119 of the Nelson Mandela Rules.

52. The source stresses that Mr. Bala's situation was made worse by his incommunicado detention without access to a lawyer for the initial five months following his arrest. It submits that the reasons for the delays in Mr. Bala's proceedings were inadequate and unjustified, and included on one occasion the case being adjourned because the judge was scheduled to have surgery. The source observes that the delay could have been mitigated by releasing Mr. Bala on bail.

d. Category V

53. The source recalls that the right not to be subjected to discrimination is particularly crucial in criminal proceedings, as it ensures equal access and equality of arms of the parties during proceedings.¹⁸ It argues that Mr. Bala's right to hold atheist views is protected under article 18 of the Covenant, article 18 of the Universal Declaration of Human Rights and article 38 of the Constitution of Nigeria. It adds that article 7 of the Universal Declaration of Human Rights and principle 5 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment enshrine the right to be free from discrimination and article 42 (1) of the Constitution guarantees the right to equality.

54. According to the source, a pattern in Nigeria exists by which authorities use blasphemy laws and laws criminalizing the criticism of another person's religion to arrest and prosecute non-Muslims. In the case at hand, the source reiterates that Mr. Bala's statements did not incite or encourage hatred, violence or intolerance; they constituted abstract expressions of his personal opinions about the Muslim faith. While individuals encouraging and threatening violence against him in response to his statements were reportedly not prosecuted, the court sentenced Mr. Bala to the maximum penalty prescribed by law. The source concludes that Mr. Bala was arrested, prosecuted and imprisoned on the basis of discriminatory grounds and that his detention is therefore arbitrary under category V.

(b) Response from the Government

55. On 13 July 2023, the Working Group transmitted the allegations to the Government under its regular communication procedure. The Working Group requested the Government to provide, by 11 September 2023, detailed information about the current situation of Mr. Bala and to clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of Nigeria under international human rights law, and in

¹⁶ Human Rights Committee, general comment No. 35 (2014), para. 38.

¹⁷ Human Rights Committee, general comment No. 32 (2007), paras. 27 and 35.

¹⁸ *Ibid.*, para. 8.

particular with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government to ensure Mr. Bala's physical and mental integrity.

56. The Working Group regrets that it did not receive a response from the Government to its communication, nor did the Government request an extension of the time limit for its reply, as provided for in paragraph 16 of the Working Group's methods of work.

2. Discussion

57. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

58. In determining whether Mr. Bala's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.¹⁹ In the present case, the Government has not challenged the prima facie credible allegations made by the source.

59. The source argues that the detention of Mr. Bala is arbitrary under categories I, II, III and V.

(a) Category I

60. The Working Group will first consider whether there have been violations under category I, which concerns deprivation of liberty without any legal basis.

Violation of the principle of legality

61. The source contends that the detention of Mr. Bala lacks legal basis insofar as he was arrested, detained and prosecuted on the basis of broad and vaguely worded laws. It argues that the wording of sections 114 and 210 of the Penal Code of Kano State is overly broad and too vague to constitute an adequate legal basis for Mr. Bala's detention. Section 210 states that "whoever by any means publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to breach of the peace, shall be punished with imprisonment for a term which may extend to two years or a fine or with both", while section 114 of the Kano State Penal Code punishes doing anything with intent to, or which is likely to, cause a breach of the peace with up to three years in prison and/or a fine.

62. The Working Group notes that the principle of legality enshrined in article 11 (2) of the Universal Declaration of Human Rights and article 15 (1) of the Covenant requires laws to be formulated with sufficient precision so that the individual can access and understand the law, and regulate their conduct accordingly.²⁰ In accordance with paragraph 22 of Human Rights Committee general comment No. 35 (2014), arrest and detention must be based on substantive grounds prescribed by law and defined with sufficient precision to avoid overly broad or arbitrary interpretation or application. In the Working Group's view, sections 114 and 210 of the Penal Code of Kano State cannot be considered to fulfil the requirements of being prescribed by law and defined with sufficient precision, owing to their vague and overly broad language. They are thus incompatible with article 11 (2) of the Universal Declaration of Human Rights and article 15 (1) of the Covenant. As a result, the Working Group considers that the charge on which Mr. Bala is being detained is so vague that it is impossible to invoke a legal basis for his detention.

Absence of arrest warrant

63. The source argues that Mr. Bala was arrested on 28 April 2020 at his home by plain-clothed detectives from the Kano State Police Command, who showed their identification cards but did not present Mr. Bala with an arrest warrant. The source submits

¹⁹ A/HRC/19/57, para. 68.

²⁰ Opinion No. 37/2020, para. 60.

that there is no evidence that any warrant was ever issued by any public authority. These allegations were put to the Government, which chose not to rebut them.

64. As the Working Group has previously stated, for a deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.²¹ This is typically done through an arrest warrant or arrest order (or equivalent document).²² This is inherent in the right to liberty and security and the prohibition of arbitrary deprivation of liberty under articles 3 and 9 of the Universal Declaration of Human Rights, article 9 (1) of the Covenant and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.²³ The Working Group recalls that any form of detention or imprisonment should be ordered by, or be subjected to the effective control of, a judicial or other authority under the law, whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence, in accordance with principle 4 of the Body of Principles.

65. The Working Group concludes that the arrest of Mr. Bala without an arrest warrant violated his rights under articles 3 and 9 of the Universal Declaration of Human Rights and article 9 of the Covenant.

Delayed charges

66. The source also alleges, and the Government does not contest, that Mr. Bala was not brought before a judge until nearly two years after his arrest and that charges were not brought against him until 23 June 2021. Mr. Bala was reportedly not formally notified of the charges against him until 3 August 2021 and final charges were not signed until April 2022, approximately 10 months later. Moreover, Mr. Bala was reportedly held in pretrial detention for nearly two years.

67. Noting the absence of any explanation from the Government, the Working Group finds that the authorities' failure to promptly inform Mr. Bala of the charges against him until more than one year after his arrest violated article 9 (2) of the Covenant.

68. The Working Group recalls that, under article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge is to be brought promptly before a judge or other officer authorized by law to exercise judicial power. As the Human Rights Committee has noted, 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee "promptly" before a judge or other officer authorized by law following the arrest; any longer delay must remain absolutely exceptional and be justified under the circumstances.²⁴ This right was denied to Mr. Bala as he was only brought before a judge on 1 February 2022, nearly two years after his arrest. The Working Group finds that Mr. Bala was not brought promptly before a judicial authority in violation of his right under article 9 of the Universal Declaration of Human Rights and article 9 (3) of the Covenant.

69. Further, the Working Group recalls that, in accordance with article 9 (3) of the Covenant, pretrial detention should be the exception rather than the norm, and should be ordered for the shortest time possible. In other words, liberty is acknowledged under article 9 (3) of the Covenant as the core consideration, with detention merely as an exception. Detention pending trial must thus be based on an individualized determination that it is reasonable and necessary for such purposes as to prevent flight, interference with evidence or the recurrence of crime. The courts must examine whether alternatives to detention, such as bail, would render custodial measures unnecessary.²⁵

²¹ Opinions No. 9/2019, para. 29; No. 46/2019, para. 51; and No. 59/2019, para. 46.

²² Opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. In cases of arrests made in flagrante delicto, the opportunity to obtain a warrant will typically not be available.

²³ Opinions No. 6/2020, para. 40; No. 89/2020, para. 54; No. 16/2021, para. 45; and No. 25/2022, para. 36.

²⁴ General comment No. 35 (2014), paras. 32 and 33.

²⁵ *Ibid.*, para. 38. See also, for example, Opinion No. 33/2021, para. 60; and United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, guideline 15.

70. In the present case, the source has submitted that Mr. Bala spent nearly two years in pretrial detention and that his multiple applications for bail were all rejected. The Government has provided no information indicating that the detention of Mr. Bala was based on an individualized determination that it was reasonable and necessary, or that alternatives to detention were considered. The Working Group therefore finds a further violation of article 9 (3) of the Covenant in this regard.

Incommunicado detention

71. The source argues, and the Government does not contest, that Mr. Bala was detained incommunicado, without access to his family or to legal counsel, for over five months following his arrest, from 28 April to 2 October 2020. While Mr. Bala's lawyer's application to the Kano Magistrates' Court to meet with Mr. Bala was granted on 24 June 2020, Mr. Bala was reportedly not produced at that hearing and his lawyers were unable to gain access to him until October 2020. According to the source, the court order was ignored by the authorities who claimed that its wording was too vague and that Mr. Bala was being kept in isolation for his own protection.

72. The Working Group has repeatedly asserted that holding persons incommunicado violates their right to contest the legality of their detention before a court or tribunal under article 9 (4) of the Covenant.²⁶ Judicial oversight of any detention is a central safeguard for personal liberty²⁷ and is critical in ensuring that detention has a legitimate basis. In the circumstances surrounding Mr. Bala's pretrial detention, the Working Group finds that he was detained incommunicado and was therefore unable to challenge the legality of his detention before a court, contrary to article 9 (4) of the Covenant. Consequently, his right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was violated.

Release order

73. The Working Group notes the source's submission according to which, on 21 December 2020, the High Court of Abuja ruled that the arrest and continued detention of Mr. Bala, as well as the continued refusal to grant him access to legal representation, constituted unlawful infringements of his rights under the Constitution of Nigeria and the African Charter on Human and Peoples' Rights. The Court reportedly ordered his immediate release on bail and awarded him damages in the amount of 250,000 naira (about \$500). According to the source, the order was not complied with by the Kano State Police Command, the prosecutor or the Kano Magistrates' Court, and Mr. Bala remains detained. These serious allegations were put to the Government, which chose not to contest them.

74. The Working Group considers that the detention of Mr. Bala after 21 December 2020, when his release was ordered by the High Court of Abuja, constitutes arbitrary detention as, following the release order, there was no legal basis justifying his further deprivation of liberty. This constitutes a clear violation of article 9 (1) of the Covenant. In this regard, the Working Group echoes the call made to the authorities by other special procedure mandate holders on 28 April 2021 to comply with the decision of the High Court.²⁸

75. On the basis of the above, the Working Group finds that the detention of Mr. Bala is contrary to articles 3 and 9 of the Universal Declaration of Human Rights, article 9 of the Covenant, principles 2, 4, 10, 11, 37, 38 and 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 119 of the Nelson

²⁶ See Opinions No. 45/2017, No. 46/2017, No. 35/2018, No. 9/2019, No. 44/2019, No. 45/2019, No. 15/2020 and No. 27/2023.

²⁷ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, principles 1 and 3; and opinions No. No. 25/2022, para. 41, and 10/2023, para. 77.

²⁸ See <https://www.ohchr.org/en/press-releases/2021/04/one-year-after-authorities-must-comply-federal-high-court-decision-release>. See also communications NGA 3/2020 and NGA 2/2021. All communications mentioned in the present document are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

Mandela Rules. The Working Group therefore finds that the detention of Mr. Bala is arbitrary under category I.

(b) Category II

76. The source argues that the detention of Mr. Bala is arbitrary under category II as he was detained for having exercised his rights to freedom of thought, conscience and religion and to freedom of expression, which are protected by articles 18 and 19 of the Covenant, articles 18 and 19 of the Universal Declaration of Human Rights and articles 38 and 39 of the Constitution of Nigeria. The Government has chosen not to challenge these allegations, despite being given the opportunity to do so.

77. Article 19 (2) of the Covenant guarantees the right to freedom of expression, including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of a person's choice. This right includes political discourse, commentary on public affairs, discussion of human rights, and journalism.²⁹ It protects the holding and expression of opinions, including those that are critical of, or not in line with, government policy.

78. Further, the right to freedom of thought, conscience and religion enshrined in article 18 of the Universal Declaration on Human Rights and article 18 of the Covenant encompasses people's freedom to change their religion or belief and the freedom, either alone or in community with others and in public or private, to manifest their religion or belief in teaching, practice, worship and observance. As stated by the Human Rights Committee in paragraph 2 of its general comment No. 22 (1993), article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The Working Group stresses that Governments must respect, protect and fulfil people's right to practise their religion, including religions that are not in accordance with its official policy, and to think and manifest personal convictions at odds with its official ideology, under the peremptory norms (*jus cogens*) of customary international law.³⁰

79. The Working Group considers that Mr. Bala's conduct fell within the right to freedom of expression, protected under article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant, as well as the freedom to manifest his religion or belief in teaching, practice, worship and observance, enshrined in article 18 of the Universal Declaration on Human Rights and article 18 of the Covenant. Nothing in Mr. Bala's case demonstrates, and the Government has not argued, that any of the permitted restrictions on freedom of expression found in article 19 (3) and on freedom to manifest religion or beliefs found in article 18 (3) of the Covenant applied. The Working Group finds that Mr. Bala was detained for exercising these rights and, therefore, that his deprivation of liberty is arbitrary under category II.

80. The Working Group wishes to recall that laws that are vague and broadly worded, such as the laws addressed under category I (para. 61 above), may have a deterrent effect on the exercise of rights, including the right to freedom of thought, conscience and religion and the right to freedom of expression and opinion, as they have the potential for abuse, including the arbitrary deprivation of liberty.³¹ The Working Group considers that charges and convictions under sections 114 and 210 of the Penal Code of Kano State for the peaceful exercise of rights cannot be regarded as consistent with the Universal Declaration of Human Rights or the Covenant.

(c) Category III

81. Given its finding that the deprivation of liberty of Mr. Bala is arbitrary under category II, the Working Group wishes to emphasize that no trial should have taken place. However, a trial did take place and Mr. Bala was sentenced to a total of 24 years in prison, the maximum sentence prescribed by law. The source has submitted that the Government committed multiple egregious violations of Mr. Bala's fair trial and due process rights and

²⁹ Human Rights Committee, general comment No. 34 (2011), para. 11.

³⁰ Opinions No. 76/2017, para. 62; No. 88/2017, para. 32; No. 94/2017, para. 59; and 2022/25, para. 53.

³¹ Opinions No. 10/2018, para. 55; No. 15/2021, para. 65; and No. 46/2022, para. 63.

that he was effectively coerced into pleading guilty to the updated charges, against legal advice, for fear that he would not receive a fair trial.

82. The Working Group recalls its findings above that Mr. Bala was held incommunicado, from 28 April to 2 October 2020. It notes the source's allegations, unrebutted by the Government, that while the Kano Magistrates' Court granted Mr. Bala's lawyer's application to meet with him on 24 June 2020, the police ignored the court order, Mr. Bala was not produced at that hearing and his lawyers were unable to gain access to him until October 2020.

83. Article 14 (3) (b) of the Covenant guarantees the right for persons charged with a criminal offence to have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing. Principle 18 (3) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 61 (1) of the Nelson Mandela Rules stipulate that defendants must have access to legal counsel without delay. Further, principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court stipulate that persons deprived of their liberty are entitled to legal assistance by counsel of their choice, at any time during their detention, including immediately after apprehension, and provide that they must be promptly informed of this right upon apprehension. Access to legal counsel should not be unlawfully or unreasonably restricted.

84. The Working Group considers legal representation as being a core facet of the right to a fair trial. Legal assistance should be available at all stages of criminal proceedings, namely during the pretrial, trial and appellate stages, to ensure compliance with fair trial guarantees. Any denial of access to lawyers substantially undermines and compromises accused individuals' capacity to defend themselves in any judicial proceedings.

85. In the light of the above, the Working Group finds that Mr. Bala was denied the right to a lawyer immediately after his arrest, in violation of article 14 (3) (b) of the Covenant and of his right to a fair trial under article 11 of the Universal Declaration of Human Rights.

86. The Working Group considers that the violations of Mr. Bala's fair trial rights are of such gravity as to give his deprivation of liberty an arbitrary character under category III.

(d) Category V

87. The source contends that Mr. Bala was arrested, prosecuted and imprisoned on the basis of discriminatory grounds, owing to his beliefs as an atheist, and that his detention is therefore arbitrary under category V. It argues that a pattern exists in Nigeria by which authorities use blasphemy laws and laws criminalizing the criticism of another person's religion to arrest and prosecute non-Muslims and enforce Islamic law and doctrine while interfering with the rights and freedoms of religious minorities.

88. The Working Group recalls that the deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination, based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability or any other status, that aims towards or can result in ignoring the equality of human beings. In the discussion above concerning category II, the Working Group established that Mr. Bala was detained for having peacefully exercised his rights under international law. The Working Group recalls that when it is established that the deprivation of liberty resulted from the active exercise of civil and political rights, there is a strong presumption that the deprivation of liberty constitutes a violation of international law on the grounds of discrimination.³² The Working Group takes note of the concluding observations on Nigeria of the Human Rights Committee in which the Committee expressed concerns about allegations of discrimination against religious minorities³³ and reiterates the concerns previously raised by special procedure mandate

³² Opinions No. 88/2017, para. 43; No. 13/2018, para. 34; No. 59/2019, para. 79; No. 36/2020, para. 75; No. 62/2020, para. 74; No. 75/2022, para. 91; and No. 65/2023, para. 75.

³³ CCPR/C/NGA/CO/2, para. 44.

holders, including the Working Group itself, regarding the use of blasphemy laws in Nigeria targeting religious minorities in particular.³⁴

89. The Working Group takes note, in particular, of the source's allegations that, in northern states, provisions such as sections 114 and 210 of the Penal Code of Kano State are more likely to be used against religious and belief minorities than against Muslims. According to the source, Nigeria has a record of using blasphemy laws to disproportionately target individuals from minority religious backgrounds. Reportedly, as of October 2022, there was no record of charges pursued against individuals having insulted religions other than Islam. In this regard, the Working Group recalls the source's submissions that, although responses to Mr. Bala's statements on social media included direct threats of violence and of death, he was the only one to be arrested or prosecuted in connection with the statements. Further, it is reported that, during the sentencing, the judge stated that "there are a lot of people that may have the same ideology but not expose themselves like that" and sentenced Mr. Bala to the maximum sentence prescribed by law.

90. In view of the above, and noting the absence of any response from the Government contesting the prima facie credible allegations formulated by the source, the Working Group concludes that Mr. Bala was detained on discriminatory grounds, based on his atheism, in violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant, and that his deprivation of liberty is arbitrary under category V.

3. Disposition

91. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mubarak Bala, being in contravention of articles 2, 3, 7, 8, 9, 11, 18 and 19 of the Universal Declaration of Human Rights and articles 2, 9, 14, 15, 18, 19 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

92. The Working Group requests the Government of Nigeria to take the steps necessary to remedy the situation of Mr. Bala without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

93. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Bala immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

94. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary detention of Mr. Bala and to take appropriate measures against those responsible for the violation of his rights.

95. The Working Group requests the Government to bring its laws, in particular sections 114 and 210 of the Penal Code of Kano State, into conformity with the recommendations made in the present opinion and with the commitments made by Nigeria under international human rights law.

96. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

4. Follow-up procedure

97. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Bala has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Bala;

³⁴ See communication NGA 1/2023.

(c) Whether an investigation has been conducted into the violation of Mr. Bala's rights and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Nigeria with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

98. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

99. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

100. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.³⁵

[Adopted on 19 March 2024]

³⁵ Human Rights Council resolution 51/8, paras. 6 and 9.